

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DONNA DORSEY DAVIS,
as an individual and derivatively upon
behalf of I-65 Properties, Inc.,

Plaintiff,

VS.

**RICHARD M. DORSEY, as an individual
and CD&O, LLC, as a necessary party,**

Defendants.

[illegible]

Case No. 2:06-cv-766-MHT

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COME NOW Richard M. Dorsey and CD&O, LLC, Defendants in the above-styled cause, and move this Court to grant summary judgment pursuant to Rule 56 of the *Federal Rules of Civil Procedure* on the grounds that there are no genuine issues of material fact to be submitted to a jury. In support of this motion, Defendants rely on the following:¹

- | | | |
|----|-------------|--|
| 1. | Exhibit "1" | Deposition of Donna Dorsey Davis |
| 2. | Exhibit "2" | Deposition of Richard Dorsey |
| 3. | Exhibit "3" | October 1, 1990 Promissory Note from I-65 Properties to Dorsey Motor Sales |
| 4. | Exhibit "4" | Articles of Incorporation for I-65 Properties |
| 5. | Exhibit "5" | By-Laws for I-65 Properties |
| 6. | Exhibit "6" | Certificate of Incorporation for I-65 Properties |
| 7. | Exhibit "7" | Closing Statement for I-65 Properties |
| 8. | Exhibit "8" | January 6, 2000 Letter from John Davis to Alan Taunton |
| 9. | Exhibit "9" | February 17, 2000 Letter from Alan Taunton to John Davis |

¹ Defendants reserve the right to cite to any deposition cited here or cited by Plaintiff in any response filed. Defendants further reserve the right to submit additional evidence when replying to any response to the extent such is necessary to fully reply.

10. Exhibit "10" April 5, 2000 Letter from Richard Dorsey to Donna Davis
11. Exhibit "11" Affidavit of Alan Taunton
12. Exhibit "12" Unsigned Copy of October 28, 2003 Letter from Alan Taunton to John Davis
13. Exhibit "13" March 18, 2006 Letter from Alan Taunton to Lindsey Erwin
14. Exhibit "14" Affidavit of Richard M. Dorsey
15. Exhibit "15" Compilation of Expenses Owed
16. Exhibit "16" January 17, 2006 Letter from Richard Dorsey to Donna Davis
17. Exhibit "17" February 3, 2006 Letter from Alan Taunton to Lindsey Erwin
18. All pleadings of record in this case;
19. Memorandum Brief in Support of Defendants' Motion for Summary Judgement, filed contemporaneously with this motion.

Wherefore the premises having been considered, Defendants respectfully request the Court to grant the Defendants' Motion for Summary Judgment and dismiss the Plaintiff's claims as a matter of law.

Respectfully Submitted this 19th day of March, 2007.

RICHARD M. DORSEY, as an individual, and
CD&O, LLC, as a necessary party,

/s/ Clifford W. Cleveland
CLIFFORD W. CLEVELAND

OF COUNSEL:

CLEVELAND & COLLEY, P.C.
744 East Main Street
Prattville, AL 36067
(334) 365-1500 phone
(334) 365-1601 fax

CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing *Defendants' Motion for Summary Judgment* with the Clerk of the Court for the United States District Court, for the Middle District of Alabama, Northern Division, using the CM/ECF system which will send notification of such filing to Lindsay B. Erwin, Esquire (lindsayerwin@gmail.com) and James Edward Roberts, Esquire (attyjuris@aol.com) this the 19th day of March, 2007.

/s/ Clifford W. Cleveland
OF COUNSEL

EXHIBIT “1”

Deposition of Donna Dorsey Davis

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DONNA DORSEY DAVIS,

Plaintiff,

vs.

CASE NO. 2:06CV766-MHT

RICHARD M. DAVIS, etc.,
and CD&O, LLC, etc.,

Defendants.

* * * * *

DEPOSITION OF DONNA DORSEY DAVIS, taken
pursuant to stipulation and agreement before Dee
Coker, Registered Professional Reporter and
Commissioner for the State of Alabama at Large,
in the Law Offices of Cleveland & Colley, 744
East Main Street, Prattville, Alabama, on
Tuesday, March 13, 2007, commencing at
approximately 9:15 a.m.

* * * * *

APPEARANCES

FOR THE PLAINTIFF:

Mr. James E. Roberts
Attorney at Law
4908 Cahaba River Road
Birmingham, Alabama 35243

Ms. Lindsay Erwin
MEACHAM, EARLEY & FOWLER
Attorneys at Law
1321 Broad Street
Phenix City, Alabama 36867

FOR THE DEFENDANTS:

Mr. Clifford W. Cleveland
CLEVELAND & COLLEY
Attorneys at Law
744 East Main Street
Prattville, Alabama 36067

ALSO PRESENT:

Mr. Richard M. Dorsey

* * * * *

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EXHIBIT INDEX

DEFENDANTS' EXHIBIT NO.:

1	By-Laws of I-65 Properties, Inc.	38,150
2	Articles of Incorporation of I-65 Properties, Inc.	42,43,60,61,150

DUNN, KING & ASSOCIATES

Montgomery, Alabama

(334) 263-0261 or (800) 359-8001

1 DEFENDANTS' EXHIBITS, continued:

- 2 3 2/17/2000 letter to John 43,47
Davis from Alan Taunton
- 3 4 3/18/06 letter to Lindsay 56,68
4 Erwin from Alan Taunton with
5 attached closing statement,
6 warranty deed, and promissory
7 note
- 8 5 4/5/00 letter to Dona Davis 82
9 from Dick Dorsey in re: 3/6/00
10 meeting

11 * * * * *

12 STIPULATIONS

13 It is hereby stipulated and agreed by
14 and between counsel representing the parties that
15 the deposition of DONNA DORSEY DAVIS is taken
16 pursuant to the Federal Rules of Civil Procedure
17 and that said deposition may be taken before Dee
18 Coker, Registered Professional Reporter and
19 Commissioner for the State of Alabama at Large,
20 without the formality of a commission; that
21 objections to questions other than objections as
22 to the form of the questions need not be made at
23 this time but may be reserved for a ruling at
such time as the deposition may be offered in
evidence or used for any other purpose as

1 provided for by the Federal Rules of Civil
2 Procedure.

3 It is further stipulated and agreed by
4 and between counsel representing the parties in
5 this case that said deposition may be introduced
6 at the trial of this case or used in any manner
7 by either party hereto provided for by the
8 Federal Rules of Civil Procedure.

9 * * * * *

10 DONNA DORSEY DAVIS

11 The witness, having first been sworn to
12 speak the truth, the whole truth and nothing but
13 the truth, testified as follows:

14 EXAMINATION

15 BY MR. CLEVELAND:

16 Q. State your name for the record, please.

17 A. Donna Dorsey Davis.

18 Q. And where you do you live, Ms. Davis?

19 A. In Clemson, South Carolina.

20 Q. Pardon?

21 A. Clemson, South Carolina.

22 Q. What's the physical address?

23 A. 202 Wescott -- that's W-E-S-C-O-T-T -- Drive.

1 Q. Is that the address that was on the
2 complaint? Do you recall?

3 A. I don't know.

4 Q. How long have you lived at that address?

5 A. We moved last April. It may have been the
6 Birmingham address? No.

7 Q. No, it was out of state. I just -- that
8 address didn't ring a bell with me. But
9 that's really not important. So you've lived
10 there since April of 2006?

11 A. Yes.

12 Q. Okay.

13 A. We rented when we first got there. So you
14 may have that address, Purple Court.

15 Q. Was that also in Clemson?

16 A. Yes.

17 Q. If you would -- I know you were here
18 yesterday, and you heard -- answer yes or
19 no. If you don't understand --

20 A. I'm sorry. I really didn't hear it
21 yesterday, but --

22 Q. That's fine. Just answer yes or no so that
23 she'll have a verbal response.

1 A. Right.

2 Q. A head shake on that record can mean many
3 things to many people.

4 A. Right. Yeah, I heard that yesterday.

5 Q. Yeah. And so -- and if you don't understand
6 my question, just tell me, hey, I don't
7 understand what you're asking, and I'll try
8 to do a better job.

9 Are you on any kind of medication or
10 anything today that in your opinion may
11 interfere with you understanding my questions
12 or should make me need to talk slower or
13 any --

14 A. No.

15 Q. Okay. Give me some background information on
16 yourself. Where did you go to college?

17 A. University of Tennessee.

18 Q. When did you graduate?

19 A. In '62.

20 Q. And what was your degree in?

21 A. Education.

22 Q. Any advanced degrees?

23 A. I went to Georgia State University.

1 Q. Did you obtain a degree from Georgia?

2 A. My master's.

3 Q. A master of what?

4 A. Education.

5 Q. When did you get your master's?

6 A. You know, I'm not sure. After -- I'm really
7 not sure. I'll have to look it up and tell
8 you.

9 Q. Best guess. Had you worked a while before
10 you went for your master's?

11 A. Yes.

12 Q. Do you have any idea how many years?

13 A. Five and -- let's see. Three years -- one
14 year in Atlanta, three years in Memphis,
15 and -- well, that's it for that period of
16 time. And then I got my master's.

17 Q. Okay. So about four years. Did you go to
18 work directly after graduating from the
19 University of Tennessee?

20 A. Yes.

21 Q. So if you graduated in '62, four years later
22 would put us at about '66?

23 A. '67 probably.

1 Q. '67. Okay.

2 A. Yeah.

3 Q. And I understand that's not exact, but
4 approximately --

5 A. Right.

6 Q. -- the latter 60's is when you got your
7 master's?

8 A. No. I didn't get that until later. You
9 asked when I graduated from Tennessee?

10 Q. And you told me in 1962.

11 A. Yes.

12 Q. Okay. And I thought you said that you
13 started your master's four years after you --

14 A. No. You asked -- I thought you asked about
15 my teaching.

16 Q. Okay. So as we sit here today, you have no
17 independent recollection of when you began or
18 when you finished your master's degree in
19 education at Georgia State?

20 A. I can think about it and tell you.

21 Q. Well, think about it kind of on the side
22 while I'm asking you some other questions.

23 A. Okay. Okay.

1 Q. In other words, if it pops in your mind, tell
2 me; if it doesn't, that's not really why
3 we're here today.

4 A. Okay.

5 Q. I'm just trying to get some background
6 information on you. Any other educational
7 training other than what you've told me
8 about?

9 A. I went to Converse for two quarters to take
10 some courses.

11 Q. And what was your concentration of study at
12 Converse?

13 A. Children with learning disabilities.

14 Q. Do you recall when that was?

15 A. Let's see. Probably '85, around that period
16 of time.

17 Q. Any other educational training?

18 A. I took a chemistry course at De Kalb Junior
19 College in the '70s while I was at Georgia
20 State.

21 Q. And that was sometime in the '70s?

22 A. It was the same time that I was going to
23 Georgia State getting my master's.

1 Q. Okay. Anything else?

2 A. Not that I can think of.

3 Q. Okay. Give me your work history.

4 A. In high school, I worked for Kesslers.

5 Q. Give me college forward.

6 A. Okay. College -- after college, I taught
7 school in De Kalb County for one year; then
8 in Memphis, I taught school for three years.
9 And didn't work for a while.

10 Q. Tell me what a while is.

11 A. Probably -- let me think. Probably nine or
12 ten years.

13 Q. What would have been the time frame for that?

14 A. Let's see. Start with '62, I taught in
15 Atlanta; three years in Memphis. And so '62,
16 '63, 64, '65. '63 I had Kelley. '64, '65,
17 '66, and '67 I taught school in Memphis. And
18 then I didn't work after that. '62-'63 I
19 taught in Atlanta. The next '63 and part of
20 '64, I had Kelley and I didn't work. Then
21 Memphis -- '64 through '67, I taught school
22 in Memphis.

23 Q. And you did not work after '67?

1 A. Right, for about eight or nine years.

2 Q. And then you went back to work?

3 A. Yes.

4 Q. Okay. Doing what?

5 A. Before I taught again, I rep'd for a
6 stainless steel fabricator, MDK, that daddy
7 and two other men owned. A part-time rep.

8 Q. What did you do? What were your job
9 responsibilities?

10 A. I called on food and beverage companies to
11 sell them stainless steel equipment for the
12 kitchens. Fabricate -- custom fab.

13 Q. How long did you work with MDK?

14 A. I'm not sure.

15 Q. When did you work for MDK?

16 A. Let's see. I'm not sure of the exact date or
17 year. Kelley was in high school, so if she
18 was 15 -- I'm really not sure.

19 MR. ROBERTS: Donna, don't guess. I
20 don't think Mr. Cleveland wants
21 you to guess. If you know, you
22 know; if you don't -- if he wants
23 to ask for it like we did

1 yesterday, he can ask for it and
2 we'll be glad to furnish a
3 complete resume. I just don't
4 want you guessing. It's not
5 material to this, but you know or
6 you don't know.

7 And for the record,
8 Mr. Cleveland, if you'll remind
9 me, I'll get a complete
10 reconstruction. I think her
11 husband can help her -- Jack can
12 help her.

13 MR. CLEVELAND: Yeah. I'd like to know
14 today about, you know --

15 MR. ROBERTS: Well, question her it on.

16 MR. CLEVELAND: -- her educational
17 background, her training, her
18 experience.

19 MR. ROBERTS: It's totally, totally
20 relevant.

21 MR. CLEVELAND: I think it is, too.

22 MR. ROBERTS: But what I'm saying is I
23 don't want her to guess. And

1 anything I can do to help you get
2 all of that information, I'll be
3 glad to do it, just like we did
4 with Mr. Dorsey.

5 Q. Yeah. Well, what I'd like to do and what I'm
6 going to do is ask you these questions. If
7 you don't know, tell me you don't know. But
8 I do want you to give me your best effort and
9 your best recollection, because to tell me if
10 you don't know and you think you know is
11 dishonest.

12 A. Well, exact dates I don't know right now.

13 Q. Okay.

14 A. But I can certainly get them for you.

15 Q. Yeah. But, you know, give me your best
16 recollection. I understand exact dates. I
17 mean, to me, exact day is day of the month,
18 and that would be --

19 A. Or years. I mean, that would really --

20 Q. That would be impossible for --

21 A. When I didn't work and everything --

22 Q. Yeah.

23 A. -- and then I -- I taught and then I didn't

1 work and all that. So I have -- I'll get you
2 a resume.

3 Q. Do you have any recollection of when you
4 worked for MDK?

5 A. When my daughter was in high school.

6 Q. And when was your daughter in high school?

7 A. She was born in '63.

8 Q. When did she graduate from high school?

9 A. I don't even remember. Isn't that awful.
10 She was born in '63.

11 Q. Other than MDK, any other work experience?

12 MR. ROBERTS: Just listen to his
13 questions.

14 A. Yes. Yes. Frank Diaz, at TeleBeverage that
15 I called on, and I had a business.

16 Q. Okay. I'm sorry. I didn't understand you.

17 A. Frank Diaz.

18 Q. How do you spell that last name?

19 A. D-I-A-Z.

20 Q. And the name of his business?

21 A. He worked for TeleFood and Beverage when I
22 was calling on him as a rep for MDK. And
23 then we formed a business, Phoenix Food

1 A. Yes.

2 Q. For three years?

3 A. And the school didn't qualify for Chapter 1,
4 and then I went back to the City for one year
5 and taught third grade in a trailer at my old
6 school.

7 Q. After that?

8 A. I didn't teach after that. I didn't work
9 after that.

10 Q. Okay. So you retired after your year
11 teaching the third grade?

12 A. I didn't really retire. Daddy had a stroke
13 during that year. So when I finished the
14 year, I didn't teach again.

15 Q. Do you recall the year that your father had
16 his stroke?

17 A. I think it was in '93.

18 Q. And did you work continuously as you left one
19 job and went to the next job?

20 A. From -- you mean from the very beginning?

21 Q. No. I'm talking about once you came back to
22 Birmingham.

23 A. As far as teaching -- teaching in the City

1 and then going to the County and back to the
2 city, yes.

3 Q. Correct. So we should be able to back into
4 some of these dates; would you agree with
5 that?

6 A. Oh, yeah. I mean, I'll give you the dates.

7 Q. Okay. And you mentioned getting married to
8 your husband. When was that?

9 A. '82.

10 Q. Are you familiar with his educational
11 background? I mean, what degrees he has,
12 where he went to school?

13 A. He went to Drexel the first year, and he
14 graduated from the University of Pittsburgh
15 in engineering.

16 Q. Do you know anything about his work history,
17 some of the people he may have worked for?

18 A. You really need to ask him.

19 Q. You don't have any recollection of anybody
20 that he worked for?

21 A. When? I mean, after I knew him --

22 Q. Yeah. I mean, after --

23 A. -- or before?

1 Q. No. After you married him.

2 A. Oh, yeah. Yes. He worked for Sarene
3 (phonetic) in Greenville.

4 Q. Spell that.

5 A. I don't know.

6 Q. Okay. Sarene?

7 A. Yeah. J.E. Sarene. Then he -- then, when we
8 moved to Birmingham, he worked for Rust
9 Engineering.

10 Q. Anyone other than Rust in Birmingham?

11 A. No.

12 Q. Is he still with Rust?

13 A. No. He's retired.

14 Q. Retired. When was the first knowledge that
15 you had of the property that is now known as
16 I-65 Properties? The first knowledge,
17 regardless of whose name it may have been
18 in.

19 A. Daddy -- I can remember daddy calling and
20 saying that they were going to give Dick and
21 I the property. And then Dick called and
22 said, Donna, mamma and daddy are going to
23 give some of our -- us some of our

1 inheritance early. And then my mother called
2 shortly, the next week or two, and said, Your
3 daddy had to remind your brother that he's
4 not an only child. I said, What are you
5 talking about? She said, They were
6 discussing the percentage that you would own
7 of I-65.

8 Q. When did this conversation take place?

9 A. I don't know. I guess when they gave us the
10 property.

11 Q. Well, would it have been before I-65 was
12 formed or after it was formed?

13 A. I don't know. It was --

14 Q. You have absolutely no recollection at all?

15 A. No, I don't. I do remember that happening.
16 I remember daddy saying they were going to
17 give it to us. And I remember Dick saying,
18 Donna, they're going to give us part of our
19 inheritance early. And then I got a phone
20 call, all in this time period, of my mother
21 saying what she did; because she said Dick
22 wanted me to have like ten or 13 percent and
23 daddy had to tell him that it would be 30

1 percent.

2 Q. 30 percent interest in?

3 A. The property.

4 Q. In the property. To your knowledge, where
5 did the property come from? And by come
6 from, I'm speaking of the ownership.

7 A. What do you mean, where did it come from?

8 Q. The title to it. To your knowledge, who had
9 title to the property before I-65 Properties
10 got title to it?

11 A. I don't remember their names.

12 Q. Tell me what you do remember.

13 A. I just did.

14 Q. Okay. You said you didn't remember their
15 names. So --

16 A. The people who owned the property.

17 Q. Okay. So you do remember that -- it's your
18 understanding that some individuals owned the
19 property before I-65 Properties got it?

20 A. Right.

21 Q. And do you have any recollection as to who
22 those individuals were or what family they
23 were from or --

1 A. I used to know, but I don't remember now.

2 Q. Okay. If I told you that the chain of title
3 goes back to the Cobb family, would that help
4 refresh your recollection?

5 A. I don't -- I just -- I thought somebody else
6 owned it.

7 Q. Other than the -- some individuals other than
8 the Cobbs?

9 A. I don't know.

10 Q. When I-65 acquired the property, did you have
11 any knowledge of the fact that there was a
12 note and a mortgage on that property?

13 A. No.

14 Q. You didn't know anything about it?

15 A. No.

16 Q. When was the first that you learned that
17 there was a debt associated with the
18 acquisition of the property by I-65?

19 A. I guess at the 2005 meeting when my brother
20 said I owed half a million dollars.

21 Q. Okay. So until 2005, you had absolutely no
22 knowledge whatsoever that there was any debt
23 associated with the acquisition of the I-65

1 property?

2 A. And let me tell you why.

3 Q. Okay.

4 A. Because when the property was given to us, my
5 one question was -- or request, if I owe any
6 money -- this was from the get-go -- please
7 let me know.

8 Q. Who did you make that inquiry of?

9 A. Dick and daddy.

10 Q. So until 2005, you had absolutely no
11 knowledge whatsoever that there was any debt
12 associated with the acquisition of the
13 property as it went into --

14 A. No. It was my understanding that when it was
15 given to us, it was debt free.

16 Q. Debt free?

17 A. Uh-huh.

18 Q. No debt associated --

19 A. Paid for.

20 Q. -- with it at all?

21 A. No.

22 Q. And that's the way you treated it from 1990
23 until 2005 when you learned there was a note

1 and a mortgage?

2 A. In 2000, my mother -- daddy died --

3 MR. ROBERTS: Just one objection.

4 Object to your statement that when
5 there was a note and mortgage with
6 no foundation being laid. I don't
7 know that there was a note and a
8 mortgage. I'm just, for -- the
9 form of your question presupposed
10 that there was a note and a
11 mortgage.

12 MR. CLEVELAND: Okay. Let me -- that,
13 you know --

14 MR. ROBERTS: I'm just trying to keep
15 it straight on the record.

16 MR. CLEVELAND: Yeah. I don't have a
17 problem with that, because I want
18 the question to be clear. I don't
19 want her to come back later and
20 say, well, I --

21 MR. ROBERTS: Right.

22 Q. Let me change my terminology from note and
23 mortgage to say any debt. Does that help

1 clear -- does that make my question clearer
2 to you?

3 A. No. Because it goes back to what I said in
4 the beginning when we got the land. If I owe
5 any money, I need to know.

6 Q. Would you have rejected the property, your 30
7 percent interest, if you had known there was
8 debt associated with it?

9 A. I have no idea.

10 Q. Between 1990 and 2005, did you make any
11 inquiries as to who's paying the taxes on
12 this property and --

13 A. My father died --

14 Q. Pardon?

15 A. My father died in '96.

16 Q. Correct.

17 A. Three months later, my mother had a massive
18 stroke. And from that point on -- in 2000, I
19 gave my husband my power of attorney as far
20 as I-65.

21 Q. Okay. You know, that's good to know.

22 A. So --

23 Q. But my real question to you, though, was did

1 you make any inquiry from 1990 --

2 A. No. I had asked in the beginning to be told
3 if I owed any money.

4 Q. Okay. But let me -- okay. But let me ask
5 you -- let me finish my question. Did you
6 make any inquiry from 1990 to 2005 as to who
7 is paying the taxes on this property, do we
8 have insurance on it, how the -- you know,
9 property just doesn't sit out there and take
10 care --

11 A. I asked for minutes.

12 Q. Okay. You asked for minutes. When did you
13 ask for the minutes?

14 A. When did I ask for them?

15 Q. Yes, ma'am.

16 A. From the get-go.

17 Q. Okay. Tell me when the get-go was. Give me
18 a date of the get-go.

19 A. When they gave us the land.

20 Q. So in 1990, you asked for minutes?

21 A. Or you may not want to call it minutes. But
22 if -- if I'm -- if I'm going to be a part of
23 this, I need to know what's going on.

1 Q. Well --

2 A. But at that point --

3 Q. Tell me what you asked for in 1990.

4 A. Information. But actually, you know, my -- I
5 trusted my brother and my father. And they
6 just -- I didn't have any reason to insist.
7 But after my father died, things changed.

8 Q. So in 1990, you asked for information?

9 A. Uh-huh.

10 Q. Did you renew that request for information
11 prior to 2005?

12 A. I guess you'll have to ask Jack.

13 Q. I'm asking you. Did you? I mean, you're the
14 stockholder. Jack is not the stockholder.

15 A. I understand that. But when I gave him my
16 durable power of attorney, my main goal was
17 to take care of mamma.

18 Q. Okay. Would it be accurate to say that up
19 until 2005, you, Donna Dorsey Davis, made no
20 independent request for any information?

21 A. After my father died?

22 Q. I'm talking -- I'm not -- I'm talking about
23 at any time. Before --

1 A. Requests were made for minutes and
2 information.

3 Q. In 1990?

4 A. Jack -- Jack went to the board meeting. And
5 you were there when you were on --

6 Q. Here's what I'm trying to do.

7 A. -- the board.

8 Q. I'm not trying to make it difficult. I'm
9 trying to understand what you did as compared
10 to what Jack did.

11 And Mr. Roberts is right. We'll take
12 Jack's deposition and ask him what he did.
13 I'm asking you -- and if your answer is I
14 didn't do anything, I turned it over to Jack,
15 that's fine. But I don't want you to tell me
16 that today and then later say something
17 else. If you did anything, fine. If you
18 didn't, just say I didn't do anything, I
19 turned it all over to Jack.

20 A. I can hear you. I told you I gave him my
21 power of attorney in 2000. And as long as my
22 father was alive, I trusted him. And I
23 trusted my brother.

1 Q. Okay. Your father died in '96. You gave
2 your power of attorney to your husband in
3 2000. Did you individually make any request
4 between '96 and 2000 for any information or
5 make any inquiries as to the business matters
6 of I-65 Properties, Inc.?

7 A. We met with Alan Taunton.

8 Q. When was that?

9 A. I'll have to look on the paper. It was
10 between that time period, I believe.

11 Q. So you believe you met with Alan Taunton
12 between '96 and 2000?

13 A. Yes.

14 Q. Well, when you met with Alan Taunton, did you
15 discover that there was a debt associated
16 with the property at that time?

17 A. He was talking -- yes. Because he said there
18 was maintenance on the land because the
19 County required that the bamboo be kept under
20 control. And -- and there were just expenses
21 of maintaining the property. I remember
22 that.

23 Q. So am I correct in understanding that when

1 you met with Alan Taunton, you learned that
2 there were maintenance expenses, but you did
3 not --

4 A. Right.

5 Q. -- learn that there was any debt associated
6 with the acquisition of the property; is that
7 correct or incorrect?

8 A. I don't remember. I remember the bamboo and
9 the County requiring the lot -- that the lot
10 be maintained to a reasonable degree.

11 Q. Well, you told me a few minutes earlier that
12 you did not learn about the debt until 2005.
13 And now you've told me that you met with Alan
14 Taunton between '96 and 2000. And I'm trying
15 to understand what -- if the only thing that
16 you learned at the meeting with Alan Taunton
17 was associated with maintenance and taxes and
18 those type things and you didn't learn
19 anything about a debt --

20 A. I don't remember --

21 Q. -- or if you did -- you don't recall?

22 A. -- learning about a debt. I do remember
23 learning about an amount, and it was for

1 maintaining the property because the County
2 required it.

3 Q. Do you recall --

4 A. I remember -- I remember the bamboo.

5 Q. You remember the bamboo?

6 A. Yeah.

7 Q. And Dick testified about the bamboo
8 yesterday, about someone going in there and
9 cutting it.

10 A. No. That -- no. No. Because I remember
11 that Alan said the County required it. It
12 wasn't Dick's bamboo.

13 Q. Did you obtain any documents from Alan
14 Taunton at the meeting that you had with him
15 at some time between '96 and 2000?

16 A. He -- he wrote us a letter after the fact, I
17 believe.

18 Q. And then, in 2000, you gave your husband your
19 power of attorney, and you concentrated your
20 attention toward providing care for your
21 mother rather than I-65?

22 A. Right. And then I went to the meeting in
23 December of 2005. It was Dick and me, and Jo

1 Anne filled in for you.

2 Q. No. I filled in for her the time I sat in.

3 A. Well, Dick said at the meeting she was
4 filling in for you.

5 Q. Oh, okay.

6 A. Because I asked where you were.

7 Q. Okay. That's fine. Tell me about that
8 meeting. What do you recall?

9 A. He gave me some pages and explained why I
10 owed -- and then told me I owed 500,000
11 something dollars.

12 Q. Were those the pages that we had yesterday?

13 A. Yes.

14 Q. The ones that you had written some notes on?

15 A. Yes.

16 Q. Okay.

17 A. The meeting was partially tape recorded, and
18 I had asked Jo Anne to send me copies.

19 Q. Of the tape?

20 A. Of the meeting.

21 Q. Of the minutes?

22 A. Yes. And I never received them.

23 Q. Did your husband attend that meeting?

1 A. He wasn't allowed in.

2 Q. Okay. So --

3 A. He sat outside --

4 Q. So it was --

5 A. -- the room.

6 Q. -- you, Dick, and Jo Anne?

7 A. Yes.

8 Q. Did you receive notice of that meeting?

9 A. Yes. I think it was about a -- a week ahead
10 of time. And it was December the -- close to
11 Christmas.

12 Q. Do you contend that there was anything
13 improper with the notice, the sufficiency of
14 the notice?

15 A. It would have been better to have more notice
16 at that time of year. Because my daughter
17 lives in New Jersey, and we go up there for
18 Christmas now that mamma is in heaven.

19 Q. Did you receive notice of any other meetings
20 that you recall?

21 A. You need to ask Jack.

22 Q. Okay. Would your answer be that you have no
23 recollection of receiving any notice?

1 A. You need to ask Jack.

2 Q. No. I'm asking you. Did you receive any
3 notice?

4 A. I can -- I don't know.

5 Q. You don't remember?

6 A. I don't know.

7 Q. Some of these are some of the same ones we
8 went over yesterday. I'm going to remark
9 them again where we don't have confusion in
10 the numbers.

11 Ms. Davis, this is a copy of the bylaws
12 that were introduced yesterday as Exhibit #4.
13 Are you familiar with --

14 A. Is this my copy?

15 Q. Yes. That's yours for you to look at and
16 keep.

17 A. Okay.

18 Q. Okay. It's going to be our Exhibit #1. Are
19 you familiar with these bylaws?

20 A. Do I understand them?

21 Q. Have you read them?

22 A. Probably.

23 Q. Do you have a recollection as to the first

1 knowledge that you had concerning these?

2 A. No, I don't.

3 Q. Well, turn to the last page, if you would.
4 Is that your signature?

5 A. It looks like it. Yes, it looks like it.

6 Q. It is? I also -- I can see Dick's initials
7 on the copy that I have.

8 MR. CLEVELAND: And mine is not any
9 better than yours, Mr. Roberts.

10 MR. ROBERTS: Okay.

11 Q. It appears that there were some other
12 initials below Dick's.

13 A. The three dots?

14 Q. Yes. But it's, in the process of copying and
15 recopying -- my question to you is do you
16 have any recollection as to whether you
17 initialed along with Dick --

18 A. No.

19 Q. -- each page of these bylaws?

20 A. No.

21 Q. But you do acknowledge your signature on the
22 last page?

23 A. It looks like it.

1 Q. I mean, you don't have any reason to believe
2 that that's not your signature, do you? If
3 you do, tell me.

4 A. I said it looks like it.

5 Q. And my question was do you have any reason to
6 believe that it's not your signature? And if
7 so, please tell me.

8 A. I don't know.

9 Q. So as we sit here today, it appears to be
10 your signature, but you aren't confident that
11 it's not a forgery?

12 A. I don't know. It's a copy. Is there an
13 original here?

14 Q. Of what?

15 A. The original of this.

16 MR. ROBERTS: Cliff, I'm familiar with
17 her signature, and I'll be willing
18 to stipulate as her attorney that
19 that is her signature. It is a
20 copy and, therefore, it may raise
21 some doubt. But I'm familiar, and
22 I'm instructing the witness for
23 your --

1 Q. Our Plaintiff's #2 -- I mean, our Defendants'
2 #2 was your Plaintiff's #3 from yesterday.

3 A. Okay.

4 Q. And we have your signature in I believe two
5 different places on Defendants' #2. And to
6 your best knowledge, that is your signature?

7 A. Yes.

8 Q. Okay. What we have marked as Defendants' #3
9 was #6 yesterday on Dick's deposition.

10 A. Okay.

11 Q. This is a letter from Alan Taunton to your
12 husband, correct?

13 A. Right, uh-huh.

14 Q. He says that he is responding to a letter.
15 But it's your recollection that you and your
16 husband met with Alan Taunton; is that
17 correct?

18 A. At some point, we did. And you'll have to
19 ask Jack about the letter.

20 Q. I'm still trying to get a time frame on the
21 meeting. And really what I'm trying to see
22 is if this letter refreshes your
23 recollection. You said that your meeting --

1 A. No, I don't remember the date of the meeting.

2 Q. Okay.

3 A. But I will get the date of the meeting for
4 you.

5 Q. Do you have notes or a calendar or
6 information -- I mean, you said I'll get you
7 the date of the meeting. Do you have that
8 information at home?

9 A. I don't know. You know what? I'll find it.
10 I don't -- I honestly don't know where it
11 is.

12 Q. Have you maintained records and files
13 concerning the I-65 property?

14 A. My husband has.

15 Q. So any correspondence that came to you, you
16 gave that correspondence to your husband
17 and --

18 A. After -- in 2000, yeah.

19 Q. What about prior to 2000? Where would that
20 correspondence be?

21 A. I don't know. I mean, I don't know. Daddy
22 talked to Jack and I about a lot of things.
23 So I don't know.

1 Q. Okay. That would have had to have been prior
2 to '96, though, correct?

3 A. Yes.

4 Q. Because your father died in '96.

5 A. Exactly.

6 Q. Okay. Any correspondence that you got from
7 '96 to 2000, do you have any recollection as
8 to where that would be?

9 A. If I have it, it's at home.

10 Q. Okay. Well, do you have a system or a method
11 for keeping up with those type things?

12 A. I think I do.

13 Q. Okay. So you think that you have a place
14 that you can search and possibly find those
15 records; is that correct or incorrect?

16 A. I think I can.

17 Q. Okay. Have you reviewed any documents or
18 looked at anything prior to us taking your
19 deposition to help refresh your memory or
20 refresh your recollection of the sequence of
21 events?

22 A. I saw those yesterday.

23 Q. When did you see those?

1 A. During his deposition.

2 Q. That's the first time you had seen them?

3 A. No. I've seen them other times, but I don't
4 remember when.

5 Q. Okay.

6 A. My main concern was -- about this was if I
7 had my calendars, then I could -- when you
8 ask me something date wise, I thought I could
9 do a better job. So I was really concerned
10 about the dates.

11 Q. Would those dates be on a calendar?

12 A. I think so, yeah.

13 Q. So is one of your methods for keeping up with
14 things --

15 A. A calendar.

16 Q. -- calendaring it?

17 A. Uh-huh.

18 Q. Okay. And have you archived or retained or
19 kept old calendars for -- I mean, we're in
20 2007.

21 A. Yes.

22 Q. I mean, would you have the 2000 calendar or
23 the '96 calendar?

1 A. I think I do.

2 Q. Would you have calendars all the way back to
3 '90?

4 A. I wish I did. I might.

5 Q. You may? Would you look and see?

6 A. Yes, I will.

7 Q. Okay. But you're fairly certain that you've
8 got calendars for the past several years
9 anyway; you just don't know if they go all
10 the way back to '90?

11 A. With the moving that we've done, I hope I
12 have them.

13 Q. Do you think you will have them from at least
14 the time that you came to Birmingham forward?

15 A. I'm not sure about that.

16 Q. Let's look at what we've marked as
17 Defendants' #3. When your husband got this
18 letter from Alan Taunton, did he show it to
19 you or discuss it with you?

20 A. After he got the letter?

21 Q. Yes.

22 A. Yes.

23 Q. Okay.

1 A. I'm sure he probably did. I don't remember,
2 but I'm sure he probably did. I think he
3 did.

4 Q. Do you have any recollection of the letter
5 that he sent to Alan?

6 A. Not at -- right at this -- no. I couldn't
7 tell you what it said right now.

8 Q. For bullet number two, his response to the
9 question about the Cobb sisters note, that
10 the purchase price was \$100,000, the
11 purchaser was Dorsey Motor Sales --

12 A. Where does it say that? Number two?

13 Q. Bullet two.

14 A. Okay.

15 Q. There was an 80,000 note from Dorsey Motor to
16 the Cobb sisters.

17 A. You're talking about the land that Sisters
18 was on?

19 Q. No. The Cobb sisters --

20 A. Oh.

21 Q. -- that the property was purchased from by
22 Dorsey Motor Sales. My question to you is as
23 of February the 17th, 2000, you had no

1 knowledge of the fact that this property had
2 previously been owned by Dorsey Motor Sales
3 rather than some individuals?

4 A. You know -- and this could be wrong -- but I
5 thought daddy paid off the \$20,000
6 increments.

7 Q. Individually rather than the company?

8 A. Yes.

9 Q. And what did you base that on?

10 A. I guess from what he told me. I just don't
11 remember. But it -- I just remember that I
12 thought that he had paid the \$20,000 note
13 increments.

14 Q. So was it your understanding that your father
15 owned the property individually rather than
16 the motor company owning it?

17 A. I'm not sure.

18 Q. If you'll look at bullet three, he makes
19 reference to the note. Do you see that?

20 A. Yes.

21 Q. Okay. So now that we've had a chance to
22 review this, would it be accurate to say that
23 it was not 2005 but at least February --

1 somewhere around February the 17th of 2000
2 that you would have learned that there was a
3 note on the property?

4 A. If I did, I didn't understand what it was.

5 Q. Do you know what a promissory note is?

6 A. No.

7 Q. You don't have any idea what a promissory
8 note is?

9 A. No.

10 Q. Have you ever borrowed any money before?

11 A. No.

12 Q. When you and Mr. Diaz went into business, did
13 y'all borrow any money?

14 A. I borrowed \$3,000 from mom and daddy.

15 Q. Okay.

16 A. Which I paid back.

17 Q. Bullet five makes reference to an appraisal.
18 Have you had an appraisal done or asked
19 anyone that you felt was knowledgeable in
20 real estate their opinion as to the value of
21 this property at any time from 1990 until
22 today?

23 A. Daddy talked about it.

1 Q. What did daddy say?

2 A. I don't remember. But he might have had an
3 appraisal. I know they had -- maybe this was
4 for Dorsey Motor Sales, but when they -- I
5 thought they hired a helicopter or something
6 to go and take pictures of all the land. So
7 I think this land was part of that.

8 Q. Have you made any inquiries as to the value
9 of the land?

10 A. I've not had an appraisal.

11 Q. Okay. Have you asked anyone, other than your
12 lawyers, what they thought the value of the
13 land was? Have you asked your husband what
14 he thought the value was?

15 A. He's not an appraiser.

16 Q. I didn't ask you if he was an appraiser. I
17 asked if you had asked him what he thought
18 the value was?

19 A. I may have.

20 Q. What did he say?

21 A. He didn't know. He's not an appraiser. It
22 needed to be an appraised.

23 Q. Well, everybody has an opinion. They don't

1 have to be qualified to give that opinion.

2 A. You'll have to ask him. I'm sorry.

3 Q. Well, I'm going to ask him, I promise. But
4 I'm asking you today, do you recall ever
5 inquiring of your husband as to what he
6 thought the property was worth?

7 A. Do I remember specifically doing that? No.

8 Q. Okay.

9 A. Did I do that? Probably.

10 Q. Do you remember what he probably told you?

11 A. No, I do not remember what he probably told
12 me.

13 Q. Have you asked anyone else what they thought
14 the value of the property was?

15 MR. ROBERTS: Other than your lawyer.

16 Q. Other than your lawyer.

17 A. Oh.

18 Q. Well, let me ask you this. Have you asked
19 your lawyers what they thought it was worth?
20 Don't tell me what they told you, but did you
21 ask them?

22 A. Yeah. I mean, he's not an appraiser either,
23 though. So --

1 MR. ROBERTS: Just answer. He didn't
2 ask you the amount. And you know
3 me. I have an opinion on
4 everything.

5 MR. CLEVELAND: That's what I said.
6 Opinions are cheap.

7 A. Right. I mean, he probably gave me his
8 opinion before I asked.

9 MR. ROBERTS: But for the record, I
10 don't remember her asking me.
11 We're going to really work with
12 you on this, Cliff, so we can get
13 through. I don't want to testify,
14 but I want to help you.

15 Q. Have you ever provided a financial statement
16 or any financial information to anyone where
17 you reflected the value of this property on
18 your financial statement?

19 A. I don't remember.

20 Q. Have you ever provided a financial statement
21 to anyone where you reflected on that
22 financial statement the fact that there was a
23 debt on that property and what your

percentage of the debt would be?

A. The debt?

Q. Yes.

A. I don't remember.

Q. Do you know if you and/or your husband have provided financial statements to any financial institution, lending institution?

A. We probably have.

Q. Would you have copies or have access to those financial statements?

A. He would probably.

Q. He would?

A. Uh-huh.

MR. ROBERTS: Cliff, for the record --

and I do think that maybe we can provide a lot of data back and forth without even subpoenas -- I would submit that I'm confident that Jack will have a lot of records. And maybe we should have taken him before Donna -- and I have seen a financial statement.

But we'll provide -- before

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1 we even take the deposition, if
2 Mr. Dorsey will give us what we
3 will ask for in a written letter,
4 then we'll provide the entire file
5 to you, including any financial
6 statements, et cetera.

7 Can we kind of have a mutual
8 agreement on that so we don't have
9 to do subpoenas through federal
10 court? I mean, we can still do
11 them.

12 MR. CLEVELAND: I don't think we have
13 to do subpoenas. I think what we
14 would need to do, to formalize it,
15 we'll put it in a request for
16 production, which is just
17 basically a letter.

18 MR. ROBERTS: That's fine.

19 MR. CLEVELAND: And that way it will
20 get both of us on record.

21 MR. ROBERTS: And we can stipulate as
22 to all the documents.

23 MR. CLEVELAND: Yeah.

1 MR. ROBERTS: Still on the record, we
2 will try to get together -- and I
3 think before you take Jack's
4 deposition, to make it productive,
5 you'll be much served if you have
6 all those documents to question
7 him from. And if Mr. Dorsey
8 provides those limited documents,
9 that will help us.

10 Q. Our #4 was the #10 from Dick's deposition,
11 for purposes of reference.

12 A. Okay.

13 Q. This is a letter dated March the 18th, 2006
14 from Alan Taunton to Ms. Erwin. Did you
15 receive a copy of this letter approximately
16 the same time that it's dated from Ms. Erwin?

17 A. Probably.

18 Q. If you'll look at the closing sales statement
19 which was attached, do you see there that the
20 price of the property was \$250,000?

21 A. Yes.

22 Q. Do you also see that I-65 Properties, Inc.,
23 is assuming a mortgage of 21,800 and issuing

1 a promissory note in the amount of \$228,200
2 to come up with that 250,000?

3 A. And this was October the 1st, 1990?

4 Q. Yes, ma'am.

5 A. I see that on this paper.

6 Q. Okay. Does that appear to be your father's
7 signature down in the lower left-hand corner,
8 Richard T. Dorsey?

9 A. It appears to be.

10 Q. Okay. Would that indicate to you that as of
11 October the 1st, 1990, your father knew that
12 there was a \$250,000 debt on this piece of
13 property?

14 A. If that's his signature.

15 MR. ROBERTS: Objection only as to the
16 form of the question as to whether
17 or not he knew or whether or not,
18 since it was -- some reference was
19 made by Taunton, that it was a --
20 what was the word -- famous word?

21 MS. ERWIN: Maneuver in defense.

22 MR. ROBERTS: A defensive maneuver.

23 But to the extent that this is

1 here, we don't disagree with it.
2 I just wanted to clear up your
3 question.

4 You can answer his question
5 the best you know.

6 Q. Would this indicate to you that your father
7 had knowledge of the \$250,000 debt?

8 MR. ROBERTS: And our same objection to
9 form that there was in fact a
10 250,000 -- I'm not challenging
11 what he says but just as to what
12 Mr. Dorsey knew or didn't know.

13 MR. CLEVELAND: I didn't ask what he
14 knew. I indicated would this
15 indicate to her from looking at
16 this document.

17 MR. ROBERTS: That there was a debt?

18 MR. CLEVELAND: That there was a debt.

19 MR. ROBERTS: Okay.

20 A. Yes.

21 Q. Okay. And the second page is a copy of the
22 promissory note that was attached to this
23 correspondence that came back. Do you see

1 are not numbered.

2 A. Okay. Oh, my page is numbered. Okay. Your
3 page isn't numbered?

4 Q. Well, there's a fax number, but the document
5 itself --

6 A. There's a P-06.

7 Q. I give that no significance. I'm talking
8 about at the bottom of the page.

9 A. Okay. I understand. I just wanted to make
10 sure I had the same thing.

11 Q. Yeah.

12 A. You said your pages weren't numbered.

13 MR. ROBERTS: Is this the bylaws?

14 MR. CLEVELAND: It's the articles of
15 incorporation which are --

16 MR. ROBERTS: I got you.

17 MR. CLEVELAND: -- Defendants' #2.

18 THE WITNESS: Mine are numbered.

19 MR. ROBERTS: He said disregard that
20 number. That was probably the
21 fax.

22 THE WITNESS: Right. But he said he
23 didn't have, yeah, that number on

1 there.

2 Q. I believe your question to me was why --

3 A. I'm sorry.

4 Q. -- why is Connie Dorsey's --

5 A. I'm sorry.

6 Q. And I'm attempting to -- do you see that she
7 is not listed there -- that she is listed
8 there as the secretary?

9 A. Names and addresses of the officers of the
10 corporation chosen for the year is as
11 follows.

12 Q. Okay. A, what does A say?

13 A. President, Richard T. Dorsey -- I
14 mean, Richard M. Dorsey. Excuse me.

15 Q. Okay.

16 A. And then I was listed as vice president. She
17 was listed as secretary.

18 Q. That's correct.

19 A. Uh-huh.

20 Q. So --

21 A. I had no idea Connie was involved until
22 later.

23 Q. Well, now, Ms. Davis, we've got your

1 Q. Sort of?

2 A. Yeah.

3 Q. Okay. What is your recollection of the
4 sequence of events surrounding that scenario?

5 A. After the 2005 meeting when he said I owed
6 500 -- or half a million dollars, I was in a
7 state of shock and scared and petrified;
8 because I thought I don't have that money,
9 and I was afraid that he could take my house
10 and everything. And it was just -- it was
11 horrible.

12 So I decided to call Dick and ask him if
13 I sold him my part of the land -- my 30
14 percent for a dollar, would that clear up the
15 debt. And he said he couldn't answer that;
16 it sounded good to him -- it was on a
17 Friday -- and that he would try and call
18 Alan. I said, But I need to know
19 immediately, as soon -- you know, he said,
20 Well, I can't tell you today because Alan
21 usually takes off on Friday but I will talk
22 to him on Monday.

23 And I didn't hear from Dick on Monday.

1 I didn't hear from him on Tuesday. And I --
2 he had said he'd let me know Monday. So when
3 that happened, I called Jim Roberts. And
4 then on -- I met with him on Wednesday.

5 MR. ROBERTS: Let me put in one
6 objection just so you don't -- and
7 Mr. Cleveland wouldn't want you to
8 communicate anything that you told
9 to me as your lawyer. So just
10 answer every question that you
11 can, but it would be inappropriate
12 for you to give any
13 conversation --

14 THE WITNESS: Yeah. I just --

15 MR. ROBERTS: No. No. Stay with me.
16 Mr. Cleveland would do the same
17 thing. Everything you can tell
18 him other than anything that I
19 told you --

20 THE WITNESS: Right.

21 MR. ROBERTS: -- between us. Go
22 ahead. You're doing good. Keep
23 going.

1 A. On Friday, I faxed Dick saying I was
2 canceling my offer or whatever you call it.

3 Q. But you initiated the offer, not Dick,
4 correct?

5 A. Right. I did.

6 Q. How did you come up --

7 A. With a dollar?

8 Q. -- with the conclusion that that was a fair
9 exchange?

10 MR. ROBERTS: Object to the form that
11 she formed an opinion it was a
12 fair exchange. But you can
13 answer.

14 Q. Well, that's the offer you made, right?

15 A. No. I just offered to excuse my debt.

16 Q. Yeah.

17 A. That's how --

18 Q. Yeah. The offer to excuse your debt for your
19 30 percent.

20 A. A dollar.

21 Q. Well, you knew what the debt was, right?

22 A. I didn't think it was a true debt. But to go
23 through -- because there were things on it

1 that didn't pertain -- that didn't make sense
2 to me. And it -- and going back to the
3 beginning of this, I -- I couldn't believe
4 that after -- all of a sudden, 2005, my
5 brother is telling me I owe half a million
6 dollars.

7 Q. Because that's the very first you ever heard
8 about it, wasn't it?

9 A. Yes. And I just thought I -- I -- I don't
10 have that kind of money. And the thought of
11 him taking my home -- and I told Jack, I
12 said, I can't do this. So I called Dick and
13 I said I would sell him it for a dollar if it
14 would excuse the debt so we could both get on
15 with our lives. And that was it. And then,
16 on that following Friday, like I said, I sent
17 him a fax taking it back. He had told me
18 he'd call me on Monday.

19 MR. ROBERTS: Just answer his
20 questions. If you need a break --

21 THE WITNESS: No, I don't need a
22 break. I'm fine.

23 MR. CLEVELAND: Well, let's everybody

1 take a break.

2 MR. ROBERTS: Yeah, that's good.

3 MR. CLEVELAND: We'll take ten minutes.

4 (Brief recess)

5 Q. We had discussions yesterday about the Nissan
6 deal. Do you recall that?

7 A. Right.

8 Q. What did you know about the Nissan deal?

9 A. I knew that my brother really wanted to put a
10 dealership out on the interstate. It was
11 very creative thinking at that time.

12 Q. Was it your understanding that it was going
13 to be his dealership rather than someone else
14 acquiring the property?

15 A. I don't know. I just -- he handled all of
16 that. I just knew that he believed that the
17 time was ready to put a dealership out there
18 and -- with the traffic going to-and-fro. I
19 knew he was talking to Nissan.

20 Q. What involvement did you have in it, if any?

21 A. None. He ran that show. It was his dream.

22 Q. Pardon?

23 A. He ran that show. It was his dream.

1 Q. The Nissan was his dream?

2 A. Yes. To have on the interstate.

3 Q. Okay. Well, did you or your husband have any
4 involvement or anything with any of the
5 Nissan transactions to your recollection?

6 A. I don't remember. I know Dick told me that
7 he was talking to Nissan and trying to work
8 out a plan.

9 Q. We had discussion yesterday also about the 12
10 percent interest. Do you recall that?

11 A. Yes.

12 Q. Okay. Have you made any effort to obtain
13 financing at an interest rate of less than 12
14 percent?

15 A. Personally?

16 Q. Yeah.

17 A. I don't know. I don't -- I don't know.

18 Q. Okay. Do you remember any correspondence or
19 communication with Dick where he encouraged
20 you to -- if you thought somebody could do it
21 for less than 12, for you to find them, bring
22 them to the table?

23 A. No, I don't remember that. I do remember,

1 after Cracker Barrel looked at the land --
2 and it was part of our original lot and part
3 of the adjoining lots -- that he was talking
4 to Cracker Barrel.

5 Q. Okay. So it's your understanding that
6 Cracker Barrel had made an inquiry anyway
7 about the land at one time?

8 A. Yes.

9 Q. And did he make you aware of the fact that
10 Cracker Barrel was looking at it?

11 A. Yes. That's what I just said.

12 Q. Yeah. So to your knowledge, who else has
13 looked at it?

14 A. I don't know. Because he said, after that,
15 he would let Jim Gilliland handle the --

16 Q. The marketing of it?

17 A. Or the -- I guess the marketing.

18 Q. Well, I mean, what else would Jim Gilliland
19 do other than --

20 A. I don't know. There's no telling. And Dick-
21 said, you know, if I thought of anybody that
22 might be interested. I said, I don't know.

23 Q. Well, I mean, did you make any efforts to try

1 to promote the property, market the property,
2 move it, do anything with it?

3 A. Move it? No. I mean, if I saw -- a friend
4 of mine talked about a new business that she
5 saw on the interstate that had a lot of
6 traffic. But I don't even remember what it
7 was. I mean, that's called driving around
8 looking. And she just mentioned it. It was
9 a neat place to eat.

10 Q. And did you tell your friend about this piece
11 of property?

12 A. No. She knew that we had this piece of
13 property.

14 Q. Okay. Did she make -- to your knowledge, did
15 that friend make any other inquiries?

16 A. No. No. She just said they had eaten at
17 this restaurant, and it was really -- the way
18 it was laid out -- it was a cafeteria style
19 that maybe travelers could run in and run
20 out.

21 Q. Well, I mean, did you put all the
22 responsibility on trying to promote the
23 property and sell it or lease it or whatever

1 on Dick, or did you try to do anything on
2 your own?

3 A. Well, I tried to think of new places that
4 would go there. Because you've got a Holiday
5 Inn and all the other stuff, so you couldn't
6 have that. So trying to find something new
7 from that standpoint. And then Dick said --
8 afterward, he said he made a mistake; he
9 should have sold it to Cracker Barrel, when
10 they went down the highway, because it would
11 have enhanced the rest of the property.

12 Q. How much of it did Cracker Barrel want?

13 A. I think he told me 300,000.

14 Q. I mean, I'm talking about how much land?

15 A. It was part of ours and part of the land --
16 the lots adjoining.

17 Q. They wanted the whole nine acres for a
18 Cracker Barrel?

19 A. No. No. No. No. No. No. No. No. They
20 wanted -- on our 9.6, it was to take a
21 portion of that and then a portion of the
22 land that abuts the 9.6.

23 Q. Oh, okay. So they didn't want it all?

1 A. No.

2 Q. They wanted a little bit of one and a little
3 bit of the other?

4 A. Right. Right.

5 Q. Well, what did you think about the Cracker
6 Barrel offer?

7 A. The amount of money?

8 Q. Yeah.

9 A. I couldn't -- I couldn't make a comment on
10 that, I mean, as far as me and business and
11 real estate. As far as Cracker Barrel
12 sitting there, I thought it was a great
13 idea. But I wasn't in the financial part of
14 it, and I -- I wouldn't be qualified to do
15 it.

16 And then, after the fact, Dick said, you
17 know, he made a mistake. He shouldn't have
18 listened to Jim; he should have done it. And
19 I have to agree with him on that as far as if
20 you look down the street and what happened
21 when Cracker Barrel went in down there.

22 Q. Okay. So it's your understanding that when
23 the Cracker Barrel offer came up, he did seek

1 the counsel and advice of a real estate
2 person as to what was a fair price and what
3 they -- what --

4 A. I'm sure he -- I don't know whether he hired
5 him or Jim was his friend and he asked him.
6 I don't know the circumstances.

7 Q. But you do recall him telling you that he
8 should have ignored Jim Gilliland's advice
9 and I-65 Properties move forward with --

10 A. Said, yeah, I think I made a mistake. You
11 know, I should have -- I should have done
12 it. And I didn't know -- you know, I don't
13 know if there was an offer on paper like,
14 here, you know, sign on the bottom line if
15 you agree with this 300,000 or whatever. I
16 don't know. You'd have to ask --

17 Q. What did your husband think about the Cracker
18 Barrel offer?

19 A. I don't recall.

20 Q. Now, he has some background in the real
21 estate business, doesn't he?

22 A. Only after he retired from engineering.

23 Q. What did he do --

1 A. He went --

2 Q. -- relative to the real state business?

3 A. He was an engineer.

4 Q. I said relative to the real estate business.

5 A. Oh. After he retired from Rust -- or not
6 retired. I mean, Kaverner -- Rust -- he came
7 back to Rust -- he went to real estate school
8 and sold real estate.

9 Q. Okay. So he's a licensed real estate agent?

10 A. He was.

11 Q. Okay. How long did he do that?

12 A. I don't know. You'll have to ask him.

13 Q. A couple of months, a couple of years?

14 A. I'm not sure how many years.

15 Q. So it was some years he sold real estate?

16 A. Yes.

17 Q. Who was his license with?

18 A. Let me think. I cannot think of it now.

19 What's one of the biggest ones in

20 Birmingham -- oh, I can't ask you a question.

21 Q. You're asking the wrong person. I don't
22 know.

23 A. You need to ask him.

1 Q. Okay. But anyway, once your husband left
2 Rust, he went to real state school, got a
3 real estate license, and sold real estate for
4 some years; is that correct or incorrect?

5 A. That's correct.

6 Q. Okay. Did he ever get his broker's license?

7 A. No.

8 Q. Does he still have his real estate license?

9 A. No.

10 Q. Do you know when he -- when he surrendered it
11 or just didn't renew or whatever the
12 circumstances were?

13 A. We moved to South Carolina.

14 Q. Okay.

15 A. And I think it was -- I don't know how long.
16 You'll just have to ask him.

17 Q. Okay. Let me be sure I'm correct. You think
18 you discussed it with your husband, but you
19 don't remember what he said about the Cracker
20 Barrel offer?

21 A. Right. That's correct.

22 Q. Okay. Do you recall receiving this letter
23 from Dick?

1 A. What number was this yesterday?

2 Q. This was not a yesterday. This is
3 Defendants' #5.

4 A. Oh.

5 (Brief pause)

6 A. Yes.

7 Q. Okay. I saw you underlining some different
8 dialogue in there. Is there anything in this
9 letter that you disagree with?

10 A. I guess all the documents that I have
11 concerning I-65 Properties. I would think --
12 are minutes documents?

13 Q. I don't know. Just tell me what sentence
14 you're referring to so we'll all be on the
15 same line.

16 A. Second paragraph, second sentence.

17 Q. I have provided the accountant with all the
18 documents that I have concerning I-65
19 Properties, Inc., from its inception to
20 date. I have been informed that these are
21 being summarized on a year by year basis.

22 A. Okay.

23 Q. Okay. What is your concern?

1 A. Nothing. I just -- it -- I just underlined
2 it so that when I look at this --

3 Q. Okay.

4 A. And at the line -- the bottom part next to
5 the last sentence -- the last complete
6 sentence: I hope you realize that my holding
7 two positions has certainly not been to your
8 detriment but very much to your benefit.

9 Q. Okay. And you disagree with that?

10 A. No. I just underlined it.

11 Q. Okay. Why did you underline it?

12 A. Because -- so when I look at it, I can see
13 that.

14 Q. Okay. I guess here's what I'm asking you.
15 Normally when I underline or highlight
16 something, it's for some particular person or
17 that point is of some significance to me.

18 A. This is for me.

19 Q. And what I'm asking you, of what significance
20 is that sentence to you, if any?

21 A. That when I pick up this, I can look at that
22 without reading everything.

23 Q. Okay. But you had told me earlier that you

1 did recall a communication where Dick said,
2 hey, if you want to find somebody else to
3 finance it, you know, that it was fine with
4 him. My question -- my follow-up question is
5 is it your best recollection that it was this
6 April the 5th, 2000 communication or is it
7 your recollection it was some other
8 communication?

9 A. That Dick said if you find -- if you come up
10 with anything --

11 Q. Yes.

12 A. -- for I-65? It was a verbal communication,
13 not from this.

14 Q. Okay. So it's your best recollection that he
15 said it to you verbally and then communicated
16 it again by way of this correspondence?

17 A. This is after the Cracker Barrel thing didn't
18 work. That's when he told me that.

19 Q. So after the Cracker Barrel deal went
20 through, he told you, hey, if you can find
21 somebody, bring them on?

22 A. Yeah. If you hear of anything, let me know.

23 Q. Yeah. Okay.

1 A. Let him know.

2 Q. What about the interest rate?

3 A. There was nothing said about the interest
4 rate that I remember -- recall.

5 Q. Okay. Well, he says here that you make
6 reference to mortgage financing being
7 obtained from a commercial -- I'm looking at
8 the forth -- the first sentence of the forth
9 paragraph. Do you see that?

10 A. You meaning me meaning Jack, thinking Jack
11 has written a letter for me since Jack had
12 the power of attorney.

13 Q. Well --

14 A. You'd have to talk to Jack about this.

15 Q. Okay. It says you, and it's --

16 A. I understand what it says.

17 Q. And the letter is to you. So --

18 A. Yeah. I know the letter is to me, and I know
19 it says you. But this is after I gave Jack
20 my power of attorney. And from 2000 on when
21 I did that, it was Jack writing the letters.

22 Q. But you do see that he says he has absolutely
23 no objection to you -- if you can get a

1 better interest rate, go get it. Do you see
2 that? That's the second sentence in the
3 fourth paragraph.

4 A. Okay. I'm underlining and starring. Okay.
5 Yes, I see it.

6 Q. You see it. Okay. My question is did you
7 make any effort to obtain --

8 A. At this point in time?

9 Q. Yes, ma'am.

10 A. No.

11 MR. ROBERTS: Let him finish his
12 question. You cut him off.

13 MR. CLEVELAND: She was right, though,
14 as to what the question was going
15 to be.

16 A. No.

17 Q. Did you make any effort to obtain lending or
18 financing at less --

19 A. No, I did not.

20 Q. Okay. Have you ever since this time? Your
21 response back to me was at this time. My
22 follow-up question is have you made an effort
23 to obtain financing since that time?

1 A. No.

2 Q. And I believe there was a question yesterday
3 about a survey. So you have been provided a
4 copy of a survey; is that correct or
5 incorrect? And I'm looking at the enclosures
6 on the bottom of page 2.

7 A. You'll have to ask Jack. I know -- you'll
8 have to ask him.

9 Q. Articles of incorporation, bylaws, survey --

10 A. You'll have to ask him. I'm sorry.

11 Q. -- and a topographical survey. You have no
12 independent recollection, but you think Jack
13 would know?

14 A. Right. I do.

15 MR. CLEVELAND: I've got the
16 complaint. I didn't bring an
17 extra copy. Do y'all have an --

18 MR. ROBERTS: That's all right. We've
19 got them.

20 MR. CLEVELAND: You've got them?
21 Okay.

22 MR. ROBERTS: Not handy, but that's
23 fine.

1 MR. CLEVELAND: I was not going to
2 offer it, so I didn't copy it.

3 MR. ROBERTS: That's fine. We'll
4 stipulate it as the complaint.

5 MR. CLEVELAND: Let me make --

6 MS. ERWIN: I've got them.

7 MR. CLEVELAND: You got an extra one
8 for her?

9 MS. ERWIN: Yes.

10 (Brief recess)

11 MR. CLEVELAND: I'm not going to offer
12 this, so it will not have an
13 exhibit number.

14 Q. Turn to your factual allegations. It would
15 be your numbered paragraph -- it's Article
16 V. It's going to be paragraph -- your
17 numbered paragraph 10.

18 A. Okay.

19 Q. Defendant Dick Dorsey has used his position
20 to control I-65 and its assets and to manage
21 I-65 in a manner oppressive to the other
22 shareholder in violation of his --

23 A. Wait a minute. I don't think I'm on the

1 right page.

2 Q. Paragraph number 10.

3 A. Five, paragraph 10?

4 Q. Number 10.

5 A. Mine says defendant.

6 MR. ROBERTS: Let him find it for you.

7 Q. Yeah.

8 A. Mine didn't say Dick Dorsey.

9 Q. I inserted Dick Dorsey.

10 A. Oh, okay.

11 Q. In a manner oppressive to the other
12 shareholder in violation of the fiduciary
13 duty he owes her. What are your specific
14 allegations there? What has he done or
15 failed to do?

16 A. When he told me I owed half a million dollars
17 in 2005. I just think it would have been
18 nice if I had known along the way each year.

19 Q. So if you had known -- so your allegation
20 there is that you did not know early on?

21 A. Right.

22 Q. And that the first you knew about it was in
23 2005?

1 A. And my fear was --

2 Q. Answer my question.

3 A. Okay. Yes. Yes.

4 Q. Okay. Now -- and if you want to -- I'm not
5 trying to cut you short.

6 A. That's fine. Yes.

7 Q. But, I mean, if you want to broaden your
8 answer, that's fine. So your contentions as
9 to that sentence in paragraph number 10 is
10 that if you had known early on and had not
11 waited until 2005, then he would not have
12 conducted himself in a manner that was
13 oppressive to you? That's the oppressive
14 thing that happened, correct?

15 A. Yes.

16 Q. Okay. You also say that he refused to
17 provide minority shareholder with documents
18 or access to information. What are you
19 talking about there?

20 A. Minutes.

21 Q. Well, now, you say refused. Tell me what
22 request was made that he refused.

23 A. I don't know how to answer that.

1 Q. Okay. Your allegation -- your factual
2 allegation is that he refused you. I want to
3 know when the request was made that he either
4 said I'm not doing it or he failed to do it.

5 A. I guess the minutes along the way. I still
6 don't have the minutes from the 2005 meeting
7 to my knowledge.

8 Q. All right. Tell me whether or not you're
9 referring there to the minutes from the 2005
10 meeting.

11 A. No. Minutes through the years. But I'm sure
12 he has copies of them.

13 Q. Okay. Tell me specifically when you
14 requested those minutes.

15 A. I guess it goes back to the very beginning.

16 Q. Okay.

17 A. I didn't know -- I didn't know a stockholder
18 had to request minutes --

19 Q. Well, now, you say that he --

20 A. -- every year.

21 Q. I'm not arguing with you, but I want to make
22 sure I understand your allegations. You say
23 he refused. To me, refused means that you

1 asked for and didn't get.

2 A. Refused means that to you?

3 Q. Yes.

4 A. Yes. That's what it means to me.

5 Q. That means the same thing to you. Okay.

6 Good. So we worked through the semantics of
7 it. When did you request?

8 A. From the beginning.

9 Q. So it's your contention that you requested --
10 specifically requested to Dick at the very
11 beginning, Provide me with documents?

12 A. And -- and if I owe any money, I need to
13 know.

14 Q. And if I owe any money, I need to know?

15 A. Uh-huh.

16 Q. Okay. This says that he denied you
17 meaningful participation in the management of
18 the corporate affairs. Tell me what you are
19 referring to there.

20 A. The way this is set up, he's the president,
21 he's the 70 percent stockholder, and I
22 essentially don't have any say-so. He can do
23 exactly what he wants to do.

1 Q. Well, you knew from the very beginning that
2 he was 70 percent, did you not?

3 A. Yes. But also, back then, I trusted my
4 brother --

5 Q. Well --

6 A. -- and my father. But mainly, I had no
7 problem with it at 70/30 then. I trusted him
8 implicitly.

9 Q. Well, it's always been 70/30.

10 A. I know. And I trusted Dick implicitly.

11 Q. And it hasn't changed.

12 A. I had no reason not to, to my knowledge.

13 Q. And you began as an officer and a director,
14 did you not?

15 A. If you can show me the minutes, I'll say yes.

16 Q. I can show you the articles that we've looked
17 at about three or four times today that
18 showed you as the vice president and on the
19 board of directors.

20 A. Okay. Yes.

21 Q. Failed to allow you to participate in any
22 annual stockholder meeting. Tell me what
23 you're talking about there.

1 A. Probably notification of the meetings.

2 Q. So it's -- well, I think you acknowledged
3 that you got notification.

4 A. I did. In the meeting for December of 2005,
5 yes. I got a certified letter, I think, or a
6 registered letter saying there was a meeting.

7 Q. Well, you came to that one, right?

8 A. Right.

9 Q. Then your husband came to some of them,
10 didn't he, without you?

11 A. You'll have to ask -- yes, he did. I don't
12 know how many.

13 Q. Okay. Well, would you agree with me that for
14 him to know the date and the time and the
15 place, that he would have had to have had
16 notice of the meeting?

17 A. Yes. That's why he knew when to come.

18 Q. That's right. So when you say that you
19 didn't get any notice of the meeting, that
20 would not be accurate, would it?

21 A. It doesn't look like it would be.

22 Q. Stripped I-65 of future profits by acquiring
23 most land surrounding I-65. Tell me what

1 you're talking about there.

2 A. Maybe it went back to the option.

3 Q. Well, we had some discussion yesterday about
4 I believe CD&O owning four lots on the other
5 side of the service road that comes in. Do
6 you recall that?

7 A. Yes. I recall that at one point, I-65 had an
8 option on the land.

9 Q. We also had discussion of the fact that CD&O
10 or somebody, Dick -- anyway, somebody that
11 Dick was associated with had purchased the
12 property that is due south of the I-65
13 property. Do you recall that?

14 A. Yes.

15 Q. Is that what you're referring to?

16 A. I'm referring to the option that I-65 had on
17 that land -- or some of it.

18 Q. Well, it says here --

19 A. Or option, yeah.

20 Q. Okay. It says here by acquiring most land
21 surrounding. Do you see that language?

22 A. Uh-huh.

23 Q. Okay. Is it your contention that because he

1 is a shareholder in I-65, Inc., that he
2 cannot acquire other property in that
3 vicinity without you or I-65 being a party to
4 it?

5 MR. ROBERTS: Objection to form as to
6 he acquire. And you can answer if
7 you know. That calls for a legal
8 conclusion.

9 MR. CLEVELAND: I'm just going over her
10 allegations.

11 MR. ROBERTS: The only reason I want to
12 do it -- that's probably my first
13 objection -- as to whether or not
14 he can acquire, whether it's in
15 his capacity individually or if he
16 had a duty to acquire in -- first
17 in the name of I-65 Investment
18 Properties -- or I-65 or whatever
19 it is.

20 Q. Do you remember my question?

21 A. No.

22 MR. ROBERTS: Ask it again.

23 Q. Is it your contention that Dick has an

1 obligation to you as a shareholder or to I-65
2 Properties, Inc., before he acquires, in
3 whatever capacity, any other property in that
4 general vicinity?

5 A. I mean, can he just go and buy property
6 anywhere? He doesn't need to check with
7 me --

8 Q. Yeah.

9 A. -- just because of I-65.

10 Q. Yeah. Yeah.

11 A. Sure. Yes. No. Yes. Yes meaning I'm sure
12 he can go buy it anywhere without checking
13 with me.

14 Q. Let's use, for example, the piece of property
15 that's due south of I-65. You know what I'm
16 talking about? That's on the other side of
17 the branch or the creek or whatever we looked
18 at yesterday?

19 A. Where the church is?

20 Q. Yeah. Yeah. Could you and your husband have
21 bought that piece of property without letting
22 Dick be a partner or participate in it in
23 some way?

1 A. We couldn't even think about buying that
2 property.

3 Q. I mean, if you had the resources. If you had
4 the financial resources, a piece of property
5 is on the market, it's got a for sale sign on
6 it, could you and your husband have gone and
7 bought it; or is it your contention that you
8 couldn't have bought it without calling Dick
9 and saying, hey, we can't buy this because it
10 adjoins I-65, Inc., and I'm a shareholder in
11 I-65, Inc.?

12 A. We could have done it just like he could.

13 Q. Yeah. Nothing wrong with that, is there?

14 MR. ROBERTS: Object to nothing wrong
15 with that. That calls for a legal
16 conclusion.

17 MR. CLEVELAND: I'm asking in her --

18 Q. In your opinion, is there anything wrong with
19 that?

20 A. With Dick buying the land around it?

21 Q. Yeah.

22 A. It was all for Dick.

23 Q. Okay. Number 11 says that he has engaged in

1 debt on October the 1st, 1990 was unlawful in
2 some way?

3 A. I didn't know there was a debt then. I
4 didn't understand; didn't know. Still don't
5 understand it. I just know that when he told
6 me I owed half a million dollars, it was
7 frightening.

8 Q. I understand that part. But my question was
9 is it your contention -- is it your
10 allegation that the original debt of October
11 the 1st, 1990 was unlawful in some way?

12 A. I didn't think there was a debt.

13 Q. Do you have -- do you know of any facts
14 whatsoever that would indicate that the
15 original debt was unlawful in any way?

16 A. I guess because I didn't see the note and
17 didn't know about it. I don't know.

18 Q. The fact that you didn't see it, is that the
19 basis for your contending that it was
20 unlawful?

21 A. I just didn't -- I just didn't understand.

22 Q. The fact that you didn't understand, is that
23 the only basis that you have that that debt

1 was unlawful?

2 A. No.

3 Q. Well, tell me what else you have.

4 A. I don't know how to explain it.

5 Q. Just in your own words.

6 A. I mean, what do you mean, if I have?

7 Q. Your allegation here is that it --

8 A. I just --

9 Q. -- that the debt was unlawful. I want to
10 know every fact that you know of or every
11 fact that you contend made it unlawful.

12 A. I just know that my father would not have
13 done this if he thought the end result was
14 going to be that I was going to owe half a
15 million dollars on the property. That's not
16 my father.

17 Q. You saw where your father signed that closing
18 statement, did you not?

19 A. Yes, I did. Today.

20 Q. Okay.

21 A. But believe me, my father --

22 MR. ROBERTS: Answer his question.

23 Just answer his question.

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1 Q. Would it be accurate to say that you know of
2 no facts that indicate that the original debt
3 was unlawful?

4 A. You mean from what daddy -- I saw his
5 signature today on that?

6 Q. Just any -- you know, any facts that you
7 have. I know what you tell me that your gut
8 tells you about your daddy. I want facts.

9 A. You need to ask Jack.

10 Q. You realize that Jack's name is not on the
11 top of this complaint, don't you? Your name
12 is the one that's up there.

13 A. I know.

14 MR. ROBERTS: That's in the record, and
15 she knows. And her answer is
16 you'll have to ask Jack. And
17 that's the best she seems to be
18 able to do. I hope we can move
19 along.

20 Q. You know of no facts, do you?

21 A. You'll have to ask Jack. I -- I gave him my
22 power of attorney in 2000. And I promise
23 you, I can't answer yes or no.

1 Q. I will -- I will ask Jack. You, Donna Davis,
2 know of no facts, do you. And if you do,
3 speak up now. And if you -- just tell me yes
4 or no, and I'll move on.

5 A. Is there a maybe?

6 Q. No, there's not a maybe.

7 A. No.

8 Q. Okay.

9 A. Not that I can remember.

10 Q. Number 12 -- paragraph number 12, Defendant
11 has denied plaintiff any meaningful
12 participation in the management of I-65 by
13 using his position as controlling shareholder
14 and the holder of 70 percent of the
15 outstanding shares of I-65. Tell me what you
16 are speaking of there.

17 A. He just has free rein. I mean, he can do
18 whatever he wants to do.

19 Q. Why?

20 A. Because he is the majority stockholder.

21 Q. Has he always been majority stockholder?

22 A. Yes. Yes. He runs the show exactly like he
23 wants to do it.

1 Q. But you have participated in the management,
2 have you not?

3 A. In what way?

4 Q. You have been an officer and a director, have
5 you not?

6 A. With my name on the paper saying that? Yes.

7 Q. You have attended shareholder meetings, have
8 you not?

9 A. I went to the one in 2005.

10 Q. Your husband has attended shareholder
11 meetings on your behalf, has he not?

12 A. He's -- yes.

13 Q. You accuse him of willfully miscommunicating
14 the timing of the meetings so that the
15 meeting was finished upon your arrival.

16 A. You need to ask Jack about that.

17 Q. Tell me the basis for that.

18 A. You need to ask Jack about that.

19 Q. Well, tell me what you know about it.

20 A. You really need to ask Jack.

21 MR. ROBERTS: He's asked you, though,
22 Donna. Not to tie down anything
23 other than he wants you to tell

1 him just what you know. And that
2 would be anything you know that
3 Jack told you. That would be
4 anything that you know like I
5 showed up and --

6 A. He came to a meeting --

7 MR. ROBERTS: And go slow. I'm not
8 trying to -- I'm not prepping
9 you. I want you to answer his
10 question.

11 A. He came to a meeting here -- I guess it was
12 here -- and due to a wreck on the interstate,
13 he was late by five to ten minutes; the
14 meeting was over.

15 MR. ROBERTS: Is "he" Jack, for the
16 record?

17 THE WITNESS: Yes, Jack.

18 Q. Okay. So that allegation is based upon Jack
19 was coming to the meeting, had a wreck on the
20 interstate --

21 A. No. No. There was a wreck on the
22 interstate.

23 Q. There was a wreck? There was --

1 A. Or something.

2 Q. There was --

3 A. Yes. Somewhere, there was.

4 Q. Traffic slowed him on the interstate --

5 A. Yes.

6 Q. -- as to where --

7 A. Yes.

8 Q. -- he was 10 or 15 minutes late getting
9 here --

10 A. Yes.

11 Q. -- and the meeting was over?

12 A. Right.

13 Q. Okay. Tell me everything you know of your
14 own knowledge, been told by anybody except
15 your lawyer as to how the timing of the
16 meeting was willfully miscommunicated,
17 willfully being intentionally
18 miscommunicated.

19 A. I think it was probably notification of the
20 meeting.

21 Q. Okay. Tell me what you're talking about.

22 A. The time that Dick decided to call the
23 meeting. The date and the place and the

1 time.

2 Q. So it's your allegation -- okay. Well --

3 A. And you asked me what I thought, in my
4 opinion.

5 Q. Well, I'm asking you what your allegation
6 is. Did he -- so you're saying that he set
7 it at one time and told you another time?

8 A. No. No. No. No. No. No. If he decided
9 to have the meeting on the 5th, he might have
10 just decided that on the 2nd, to have this
11 meeting. It's the time factor, notification
12 of the meetings, and the meeting.

13 Q. So you're saying that he didn't give -- not
14 that he willfully miscommunicated the time;
15 he just didn't give you adequate notice?

16 A. Notice.

17 Q. Okay. Number 13 says, To further squeeze
18 plaintiff out of I-65, defendant offered to
19 buy plaintiff's stock in I-65 to satisfy a
20 mortgage that was made to defendant's
21 corporations. Do you see that, the first
22 sentence of paragraph number 13?

23 A. Yes, I do see it.

1 Q. Okay. The truth of the matter is that you're
2 the one that made that offer, correct? And I
3 think you've acknowledged that today.

4 A. Yes.

5 Q. Okay. The actual value of your stock is
6 approximately triple the value that defendant
7 offered.

8 A. Well, since there's been no appraisal of the
9 land, I don't know.

10 Q. That was my question. What is the basis of
11 the allegation that your stock is worth
12 triple the value?

13 A. If I was going to sell him my stock for a
14 dollar.

15 Q. So you're saying it's worth \$3, then?

16 A. I guess so. No. I don't know.

17 Q. Okay. You're not saying that. That would be
18 ridiculous, wouldn't it?

19 A. I know.

20 Q. Yeah. Is the truth of the matter that you
21 don't have any basis for that allegation?

22 A. I can't see one.

23 Q. It goes on to say that, Said mortgage is

1 purported -- purported by whom?

2 A. I guess me.

3 Q. Okay.

4 A. Since I thought the land was paid for.

5 Q. Okay -- to be inadequate and false upon its
6 conception. Is that what you're -- is that
7 your allegation there?

8 A. I guess so.

9 Q. That you thought it was paid for?

10 A. I didn't know about the note. So I guess
11 that's why that's there.

12 Q. So that language goes back to the note at its
13 inception that you say you didn't know
14 anything about?

15 A. Right.

16 Q. Okay. Paragraph number 14, Defendant
17 breached his fiduciary duties of good faith
18 and ordinary care owed to I-65. How did he
19 breach his fiduciary duties?

20 A. Tell me what that means.

21 Q. Well, fiduciary duties are --

22 MR. ROBERTS: Would you read the whole
23 one or let her read -- you read

1 part of it. I'm only asking would
2 you read it --

3 MR. CLEVELAND: I read the entire
4 sentence.

5 MR. ROBERTS: I missed it. In that he
6 has exposed I-65 -- am I on the
7 wrong one -- to financial
8 obligations?

9 MR. CLEVELAND: Paragraph number 14.

10 MR. ROBERTS: Okay. You read a
11 sentence, but not all of 14. I'm
12 just asking, in context, would you
13 allow her to respond -- or at
14 least have time to read all of
15 14?

16 Q. Yeah. Well, read all of paragraph 14, and
17 then I'm going to ask you about each
18 allegation.

19 MR. ROBERTS: Right. That's fine. It
20 will be easier to get the whole
21 thing.

22 (Brief pause)

23 A. Okay.

1 Q. You've read it?

2 A. Uh-huh.

3 Q. Okay. How has he breached his fiduciary
4 duties to I-65?

5 A. Tell me again fiduciary duties.

6 Q. Financial.

7 A. I think he might have used it to buy up the
8 other land.

9 Q. Okay. Tell me your basis for thinking that.

10 A. Because, originally, I thought it was paid
11 off. And he could have used it for whatever
12 you call it to buy the other land.

13 Q. You think he's used it for collateral? Is
14 that the word you were looking for?

15 A. I think so.

16 Q. So it's your allegation -- one of the things
17 you're talking about there in number 14 is
18 that it's your allegation that Dick has used
19 the I-65 property as collateral to buy other
20 property?

21 A. Yes.

22 Q. Now, are -- and we went into this yesterday.
23 Are you saying that he has directly, in other

1 words, placed a mortgage or a lien on it, or
2 that he has indirectly used it by showing his
3 ownership as an asset?

4 A. I don't know.

5 Q. Have you ever shown that asset -- your
6 ownership as an asset for you and your
7 husband?

8 A. To buy something? No.

9 Q. To buy something.

10 A. Unh-unh.

11 Q. Never put it on a financial statement?

12 A. I don't believe so.

13 Q. Okay. If you had, then you would be doing
14 the same thing you accused him of, correct?

15 MR. ROBERTS: Object to the form of the
16 question.

17 Q. You can go ahead and answer it. He's just
18 putting his objection on the record.

19 A. Oh. I never knew what you were doing
20 yesterday. And he started doing it.

21 If you put -- I mean, to put it on a
22 financial statement, if you're not buying
23 anything, I don't see how that's the same if

1 you use the land to -- for collateral.

2 Q. Well, by collateral, are you talking about
3 putting a lien on it, putting a mortgage on
4 it?

5 A. No, I don't think so.

6 Q. Well, what do you mean? Tell me what you
7 mean by using it for collateral.

8 A. I guess maybe it is -- I don't know -- so you
9 can get a loan to buy the others.

10 Q. So is it your allegation there that Dick has
11 mortgaged or used this property as
12 collateral, given some financial institution
13 a lien on this property so he could buy
14 something else?

15 A. I think there's a possibility.

16 Q. Just tell me what you know.

17 A. You know --

18 MR. ROBERTS: If you don't know, just
19 say I don't know.

20 Q. Tell me why you think there's a possibility.

21 A. I don't know. I don't know.

22 Q. Okay. Do you have any basis whatsoever --

23 A. I don't know.

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1 Q. Any factual basis for that allegation?

2 A. I don't know.

3 Q. Well, either, yes, you do, or, no I don't.

4 MR. ROBERTS: No. I'm afraid she can
5 say I don't know.

6 MR. CLEVELAND: No. I disagree with
7 you.

8 MR. ROBERTS: Well, on the record, let
9 me go ahead and clear that up.

10 MR. CLEVELAND: Well, make it real
11 quick, because you're the one
12 trying to get out of here.

13 MR. ROBERTS: Well, I understand.

14 MR. CLEVELAND: And I'm trying to
15 accommodate you.

16 MR. ROBERTS: Well, and I appreciate
17 that. But there are three answers
18 to any question. It's yes, no,
19 and I don't know.

20 Now, all I'm saying is you
21 have the right to argue at trial
22 that her "I don't know" is
23 equivalent to that is a no. But

1 she still has the right to answer
2 not in. We're not in a police
3 thing where she's under a light.
4 There's yes, no, I don't know.
5 And, actually, there's another
6 one, maybe so.

7 MR. CLEVELAND: Okay. Are you
8 finished?

9 MR. ROBERTS: I'm finished. But I'm
10 just telling you -- and it's the
11 only time I've really objected --
12 if she says I don't know, that's
13 an answer

14 Q. Ms. Davis, these are your -- and you've heard
15 his objection. But I'm going to ask you my
16 question anyway. These are your factual
17 allegations. Factual allegations are the
18 facts that you know of your own knowledge to
19 file this lawsuit.

20 Now, what I'm asking you, what facts do
21 you have to accuse Dick of using that
22 property, the I-65 property, for collateral
23 on other business transactions?

1 Q. So your answer was I know of no fact that
2 would support the allegation that Dick has
3 used this property for collateral on another
4 business deal?

5 A. I don't know.

6 Q. You mentioned Myron Thompson's name
7 yesterday. I -- we'll see how far those
8 answers get.

9 MR. ROBERTS: Well, if he wants to jump
10 on a school teacher, then that's
11 fine with me.

12 MR. CLEVELAND: I can tell you, he'll
13 jump on anyone that he thinks is
14 playing with his court.

15 MR. ROBERTS: And I'm really pleased to
16 hear that. We've got the right
17 judge when it comes to playing.

18 MR. CLEVELAND: We do have the right
19 judge. We do. I've been in front
20 of him a number of times, and he's
21 an outstanding judge.

22 MR. ROBERTS: Well, I agree.

23 Q. Number 15. Would you read 15 in its

1 entirety, and then we will address the
2 different allegations.

3 (Brief pause)

4 A. Okay.

5 Q. Are you ready?

6 A. Uh-huh.

7 Q. The second sentence says that, The defendant
8 has used the resources of CD&O to the
9 detriment of I-65. What fact do you have to
10 support that allegation?

11 A. It's -- is that the advertising company?

12 Q. It's CD&O is all I know.

13 A. Well, I have to remember what it -- CD&O is
14 before I can answer it. So I have to say I
15 don't know.

16 Q. Okay. Well, let's do it this way. Let's
17 assume, for purposes of my question, that
18 CD&O is the advertising company. What facts
19 do you have as it relates to the advertising
20 company?

21 A. On the financial statement from the 2005
22 meeting, the moneys involved with CD&O.

23 Q. Tell me what you're talking about.

1 A. The financial statement and CD&O and the
2 money listed for CD&O on the financial
3 statement of the 2005 meeting.

4 Q. The money owed to CD&O?

5 A. It may have been money paid to CD&O.

6 Q. Or money paid by CD&O?

7 A. I need the financial statement.

8 Q. Okay. Well, let's look at it. I'm going to
9 show you what was marked yesterday as
10 Plaintiff's Exhibit #8. Is that the
11 financial statement that you were referring
12 to?

13 A. Yes.

14 Q. Okay. If you would look at it and tell me
15 what, off that financial statement relating
16 to CD&O, is the basis of this allegation.

17 A. I can't find it. On the back, TD&O.

18 Q. The last page?

19 A. Yes.

20 Q. Okay.

21 A. \$3,000.

22 Q. TD&O?

23 A. Uh-huh.

1 Q. \$3,000?

2 A. And --

3 Q. Wait. Keep your spot and try to hold your
4 train of thought. Is that money paid to TD&O
5 or paid by TD&O --

6 A. It says --

7 Q. -- on behalf of I-65?

8 A. I don't know. It doesn't have a top. It has
9 TD&O -- May 14th, TD&O, \$3,000.

10 Q. Okay. So is your allegation based upon the
11 fact that from looking at that, it's your
12 understanding that that's money that I-65
13 paid to TD&O?

14 A. I don't know.

15 Q. Well, if it was paid by TD&O on behalf of
16 I-65, that would be to the benefit of I-65,
17 would it not?

18 A. Yes.

19 Q. Okay. So that would -- that could not be
20 what you're talking about, is it?

21 A. I don't know what it means. It has TD&O and
22 \$3,000.

23 Q. Okay. Well, your allegation says that he has

1 used the resources of CD&O to the detriment
2 of I-65. And my whole point, Ms. Davis, is
3 that if it's money that was paid to TD&O, I
4 can understand your allegation. If it was
5 money that was paid by TD&O on behalf of
6 I-65, then that would be no detriment to
7 I-65, would it?

8 A. Right. But you see on here where it's listed
9 and it has money? It doesn't say what it is.

10 Q. Okay. And you are speaking of -- and I want
11 you to confirm it for me -- the November
12 24th, 1993 entry concerning CD&O; is that
13 right?

14 A. It says November the 24th, CD&O, Inc.

15 Q. Right.

16 A. No year.

17 Q. Well, it's 1993.

18 A. Oh, yeah. Yeah. Excuse me. Yes.

19 Q. I just wanted --

20 A. Yes.

21 Q. So that when we all look back at this record,
22 we'll know what line item you're looking at.

23 A. And then the -- in 2003, May 14th, TD&O,

1 Inc., 3,000.

2 Q. Okay. And that's another line item that
3 you're looking at?

4 A. Yes.

5 Q. Okay. And those two line items are the
6 factual allegations for paragraph number 15?

7 A. Yes.

8 Q. Okay. Read 16, if you would, and then we'll
9 try to see if we can break it down.

10 A. Okay.

11 Q. Defendant engaged in a series of conflicting
12 interest transactions that put I-65 at
13 immediate risk of serious loss either without
14 disclosure to the board or without approval
15 or ratification of a majority of qualified
16 shareholders. What are you talking about?

17 A. I don't know.

18 Q. Honest answer.

19 A. You believe me now, don't you?

20 Q. Well, that's all I wanted you to say before.

21 A. I know.

22 Q. Do you have any facts to -- do you know of
23 any facts --

1 A. I don't know.

2 Q. Okay. Number 17. The paragraphs are getting
3 a little shorter, thank goodness. We thank
4 the author for that.

5 A. Okay.

6 Q. Defendant made it impossible to obtain a
7 quorum of qualified directors to review,
8 ratify, or approve any conflicting interest
9 transactions relating to himself. What are
10 the factual -- or what are the facts behind
11 that allegation?

12 A. I don't know.

13 Q. Do you know of anything that he has done to
14 make it impossible to obtain a quorum of
15 qualified directors?

16 A. With the 70 percent that he owns, he can do
17 anything he wants.

18 Q. I understand that. But how did he make it
19 impossible?

20 A. He can do -- he can vote any -- anything that
21 he wants to do. I'm a minority stockholder.
22 I can't outvote him if I disagree with
23 something.

1 Q. Read number 18, if you would. Paragraph
2 number 18.

3 (Brief pause)

4 A. Okay.

5 Q. What facts do you have to support the
6 allegation that he has not committed the time
7 or resources to I-65?

8 A. I think the upkeep of the land, the
9 maintenance. As we talked about, the bamboo
10 and everything way back when; that the County
11 wanted the land presentable or maintained.
12 And it didn't look like it was maintained
13 yesterday.

14 Q. So is the maintenance of the property the
15 only thing that you're talking about there?

16 A. I don't know.

17 Q. Well, how do you think it should be
18 maintained?

19 A. I guess where it looks like a property.

20 Q. I mean, what would you have to do? In your
21 mind, what's your opinion of what would need
22 to be done out there on that nine acres to
23 make it look like a property?

1 A. When the County was having him keep the
2 bamboo in check. And originally, it just
3 didn't look like it does now.

4 Q. Tell me about the -- who did you hear from
5 that the County was requiring the bamboo be
6 cut?

7 A. Alan Taunton.

8 Q. So Alan told you that?

9 A. Yes.

10 Q. But my question to you is -- you said that
11 the maintenance is not what you think it
12 should be --

13 A. Yes.

14 Q. -- based upon the way it looked yesterday?
15 What would you do to maintain it at a level
16 that you think would be acceptable and would
17 not constitute negligence on his part?

18 A. I would clean up the property.

19 Q. How would you clean it up? What would you
20 do?

21 A. I guess I'd get the Vietnamese back and give
22 them the bamboo.

23 Q. Where would you get -- would you get --

1 MR. ROBERTS: Off the record a minute.

2 (Off-the-record discussion)

3 Q. Let's get back to my serious question and to
4 your allegation. Your allegation --

5 A. What number are we on?

6 Q. We're on number -- we're on number 18. Your
7 response to my question was you said that the
8 property was not being maintained -- you
9 thought he was negligent because the property
10 was not being maintained as it should be
11 maintained.

12 My question back to you is, well, how
13 would you maintain it? And we'll leave the
14 Vietnamese out of it. How would you maintain
15 it to have it at the standard that you think
16 it should be?

17 A. I don't think it has to look exactly like the
18 surrounding property, but I think the bamboo
19 is out of control. I would clean it up.

20 Q. Would you bring a bulldozer in and clean it?
21 I mean, what would you do?

22 A. I'm not a -- I don't know. I wouldn't
23 bulldoze it; I'd just clean it up. It's

1 never been just clear from the beginning.

2 Q. Do you have any idea of the cost that would
3 be associated --

4 A. I don't, no.

5 Q. -- with bringing it to the level that you
6 want it?

7 A. No.

8 Q. Would you acknowledge that all of that costs
9 money?

10 A. Yes.

11 Q. Okay. Have you spent any money whatsoever on
12 maintaining or taking care of the I-65
13 property?

14 A. No.

15 Q. Look at paragraph number 21.

16 A. Okay.

17 Q. Is it your contention that there have been
18 profits made and that there are dividends to
19 be distributed which have not been
20 distributed?

21 A. I don't know.

22 Q. Do you know of any fact that would indicate
23 that I-65 has made a profit?

1 A. I don't know.

2 Q. Do you know of any fact to support your
3 allegation that he has manipulated corporate
4 earnings to squeeze you out?

5 A. A debt of a half a million. Next year it may
6 be 700,000. That's scary.

7 Q. I understand that. But your allegation is
8 that he has manipulated corporate earnings.
9 Do you have any facts to support that
10 allegation?

11 A. When he gave me this in the meeting
12 (indicating), this is the financial statement
13 he said. And then yesterday it was said, no,
14 no, no, this isn't a true financial
15 statement. But at the December 2005 meeting,
16 he told me it was a financial statement. Not
17 a make believe one, but it was the financial
18 statement explaining why I owed half a
19 million dollars. And there's a page missing
20 off of this six of six.

21 Q. Those are the documents that y'all had
22 produced yesterday, not the ones we
23 introduced.

1 A. Okay. Let me read it, because --

2 Q. Do.

3 A. Well, I look at you while you're talking and
4 I'm not reading it.

5 Q. Okay. Yeah.

6 (Brief pause)

7 A. It goes back to the option.

8 Q. It goes back to the option?

9 A. Yeah.

10 Q. Nothing new there?

11 A. Not that I can see.

12 Q. Okay. Look at number 28. Does that relate
13 back to the allegations that we have
14 discussed earlier, or are there new items
15 there that have not been included that I
16 haven't asked you about before?

17 A. Are you talking about the 12 percent rate for
18 all these years?

19 Q. Yeah. The 12 percent and the mortgage.

20 A. It's --

21 Q. Do you understand my question?

22 A. Yes. I'm trying to figure out, since I
23 understand it, is it a yes or a no that I

1 say.

2 Q. Well, my question is is this the same -- is
3 this allegation the same thing that you had
4 talked about earlier?

5 A. Yes. To my knowledge, yes.

6 Q. Okay. Nothing new here that we haven't
7 already talked about?

8 A. No.

9 Q. Let's look at 31.

10 A. Okay.

11 Q. It appears that this allegation is that he
12 has willfully and wantonly allowed CD&O to
13 purchase surrounding land without giving an
14 option to I-65 and entering into the mortgage
15 agreement with Dorsey Motors, Inc., at an
16 exorbitant interest rate. Are these the same
17 allegations that we have previously
18 discussed?

19 A. I believe so.

20 Q. Okay. Nothing new?

21 A. Not to my knowledge.

22 Q. Look at 34.

23 A. Okay.

1 Q. Are these the same items that we have
2 discussed before?

3 A. Yes.

4 Q. And I think we went into some detail on
5 that. Nothing new? No new allegations here
6 in count six under your paragraph number 34
7 that we have not previously discussed?

8 A. Correct.

9 Q. Look at paragraph number 36, if you would.

10 A. Okay.

11 Q. What facts do you have that Dick has
12 defrauded you?

13 A. I guess at the 2005 meeting when he said I
14 owed half a million dollars. And I have no
15 say-so or control or anything in this. And
16 then, next year, if we meet, he could come,
17 like I said, and say now it's 700,000.

18 Q. Well, let's talk about fraud in the past.

19 A. Well, I think that is. If I don't have
20 the -- the true -- I thought this was a true
21 financial statement. If I don't -- if
22 somebody tells me this is a financial
23 statement, I assume this is a true one. And

1 now, yesterday, he said it wasn't. I don't
2 know whether you call that fraud or just
3 plain -- I don't know what you call it.

4 Q. This complaint was filed in August of '06,
5 according to the stamp. Okay. I want to
6 know what facts you knew in August of '06
7 that Dick had defrauded you and not something
8 that you heard yesterday.

9 A. This is in a board -- a meeting for I-65.
10 And that was in 2005. So this was before
11 this. This is part of it.

12 Q. So you knew immediately that there was
13 something wrong with that?

14 A. No. I -- in the meeting, he said this is the
15 financial statement. Through the years --
16 and I'm going to show you why you owe half a
17 million dollars. I thought this was a
18 legitimate, true financial statement.

19 Q. Okay. But my question to you, as of August
20 of 2006 when this complaint was filed, what
21 basis do you have that he had defrauded you?
22 What did you know in August of 2006 -- or
23 what did you think you knew in August of 2006

1 that would mean that Dick had defrauded you
2 in some way?

3 A. I just didn't trust him anymore.

4 Q. Okay. A lack of --

5 A. And I am afraid.

6 Q. A lack of trust, then?

7 A. I am afraid -- I am afraid of him, and I
8 don't trust him. That's the honest truth.

9 Q. As of August 2006, what facts did you have
10 that Dick had been deceitful or had deceived
11 you?

12 A. At this board meeting of 2005, there was a
13 tape recorder. And I -- somebody said in
14 Alabama you don't have to tell somebody
15 they're being tape. I wasn't -- I didn't
16 even realize it was being taped. At one
17 point we were talking, and Dick said that
18 when daddy and mamma gave us the land, they
19 had a verbal agreement -- he had -- he and
20 daddy had a verbal agreement that it was in
21 lieu of my percent -- my 30 percent that I
22 would inherit when they died of the
23 dealership.

1 Q. And that statement was made in --

2 A. At the 2005 meeting.

3 Q. That was when that -- that statement was
4 made, at that time --

5 A. Yes.

6 Q. -- in 2005?

7 A. And I said, well, if that's true, why
8 didn't -- why didn't daddy change his will?
9 And Dick said, I don't know. Because when my
10 father died, the will said that when mamma
11 died, I would get 30 percent and Dick would
12 get the -- whatever is left, the 40 or -- to
13 make him -- I'd have 30 and he'd have 70 of
14 the dealership.

15 Q. Of the dealership.

16 A. Uh-huh. That's why it says verbal agreement
17 with dad. That's what he said.

18 MR. ROBERTS: Answer his questions,
19 not --

20 THE WITNESS: Okay. Oh, that's right.

21 Q. Okay. I want to be sure I understand, now.
22 The deceit occurred at the shareholders
23 meeting in December of 2005?

1 A. Yes. And then when daddy -- it was before
2 that, too.

3 Q. When was that?

4 A. When daddy had a stroke.

5 Q. In '93?

6 A. In '93. We brought him home from the
7 hospital five or six days later. And when
8 daddy died, Dick brought a black case over
9 with all the records for mamma and daddy,
10 insurance, et cetera. And in there, there
11 were two pieces of paper that -- like durable
12 power of attorney for daddy that he had
13 signed and a durable power of attorney for
14 mother. And the date that supposedly my
15 father signed this was the date we brought
16 him home from the hospital after his stroke.
17 I was with him the whole time, and he
18 couldn't have written his name like it was on
19 that durable power of attorney.

20 Q. But that was in '96, right?

21 A. And that was giving Dick the durable power of
22 attorney, not Dick and me. It was just
23 giving Dick the durable power of attorney.

1 Q. And that was in '96 when your dad died that
2 Dick brought the box over?

3 A. Yes.

4 Q. Okay.

5 A. Yes. And he wanted to know if I'd look
6 through it.

7 Q. Okay. And you say that he has suppressed
8 material facts from you. What material facts
9 do you contend have been suppressed from you?

10 A. I don't know.

11 Q. This is an interesting allegation. Perhaps
12 it's -- that you relied, to your detriment,
13 on nondisclosure of material facts.

14 A. Where are you?

15 Q. I'm at the --

16 A. The same one?

17 Q. I'm at the last -- I'm in the last sentence
18 of 36.

19 A. I think that means that -- it's a horrible
20 thing to find out your brother -- you can't
21 trust your brother. And I just -- it's
22 horrible.

23 Q. Would you be surprised to know that he feels

1 the same way?

2 A. Would you be surprised to know that I don't
3 believe that?

4 Q. No, I'm not surprised.

5 MR. ROBERTS: You're asking questions
6 again.

7 THE WITNESS: I know it.

8 MR. ROBERTS: I've got a lot of
9 questions for her. So if you can
10 hurry. I say a lot. I need to
11 get through pretty quick.

12 Q. What do you want out of this lawsuit?

13 A. Peace.

14 Q. Okay.

15 A. P-E-A-C-E.

16 Q. What would it take to give you peace?

17 MR. ROBERTS: I'm going to object to
18 that. I'm her attorney, and I
19 think I'd have to -- as you would,
20 Cliff, I think I'd -- I'd have to
21 have an appraisal of the property
22 to give you an answer to that. I
23 mean, if you're soliciting an

1 offer, we'd be glad to talk about
2 it.

3 But I think I said on the
4 record we are going to have, at
5 our own expense, the property
6 appraised by an MAI. And then she
7 and I both will be able to come to
8 Dick and see if we can resolve
9 some of this.

10 Q. Well, you have asked for compensatory and
11 punitive damages. In what amount?

12 A. I don't know.

13 Q. Do you know what punitive damages are? Do
14 you know that they are damages to punish?

15 A. Explain it a little more.

16 Q. Well, punitive damages are money damages to
17 punish Dick.

18 A. It's like spanking a bad child when they do
19 something?

20 Q. Okay. How bad do you want this bad child
21 spanked? And put that into dollars for me.

22 A. I want him to --

23 Q. Because that's the only way you can spank

1 relationship.

2 MR. CLEVELAND: I don't think it does.

3 I mean, that's part of the relief
4 you've asked for. We have a right
5 to know what we're facing.

6 MR. ROBERTS: If she knows, she can
7 answer.

8 A. Honestly --

9 Q. Your husband did that?

10 A. No.

11 Q. Okay.

12 A. No.

13 Q. You don't know what your financial
14 relationship with your attorneys are?

15 A. I can get it for you.

16 Q. You can get it for me?

17 MR. ROBERTS: Don't look at me. Don't
18 look at me.

19 A. I mean, I'd have to look at it to tell you
20 specifically.

21 Q. Okay. You also ask for costs other than
22 filing fees. Do you know what other costs
23 you are referring to there?

1 A. I don't know.

2 Q. You own no interest in CD&O, LLC, do you?

3 A. No.

4 Q. And have never owned any interest in that?

5 A. No.

6 MR. CLEVELAND: Give us about four or
7 five minutes. We're getting
8 close.

9 MR. ROBERTS: All right.

10 (Brief recess)

11 Q. Mrs. Davis, you made reference to a will
12 earlier. And maybe I just didn't hear you
13 correctly or didn't understand. I'm going to
14 get you to clear it up for me. Did you say
15 that your mother or father's will left you 30
16 percent of the dealership --

17 A. No. When daddy died --

18 Q. -- in '96?

19 A. -- everything went to mamma.

20 Q. Correct.

21 A. And then, on her death, Dick and I -- let me
22 see -- Dick and I would -- I'd get 30 percent
23 and Dick would get 30 percent, their stock in

1 recorder. I don't know whether that was on
2 the tape recorder, but then he turned it
3 off. And then -- at some point. So it may
4 be on the tape. I don't know.

5 Q. Was Jo Anne present?

6 A. Yes.

7 Q. Anyone else?

8 A. No. And she was taking the minutes. I don't
9 know that she -- I don't know whether -- I
10 don't know what her instructions were when
11 the tape recorder went off, and then it was
12 turned back on.

13 Q. Is it your contention that you are entitled
14 to 30 percent of the profits of I-65
15 Properties?

16 A. I don't understand what you're saying.

17 Q. I'm just asking you, you own 30 percent of
18 the stock; do you not?

19 A. Yes, I do.

20 Q. Is it your contention that you are entitled
21 to 30 percent of the profits of I-65?

22 A. I would think so.

23 Q. Would it also be your understanding that you

1 would be responsible for 30 percent of the
2 debt of I-65?

3 A. A true debt?

4 Q. Yeah, a true debt. Whatever the true numbers
5 work out to be.

6 A. Yes.

7 MR. CLEVELAND: Okay. That's all I
8 have. Thank you.

9 MR. ROBERTS: Thank you. I'm going to
10 move as quickly as I can. And if
11 you'll allow me a little room,
12 Mr. Cleveland, rather than reading
13 all of the articles of
14 incorporation and the bylaws which
15 are marked in this case -- what
16 are the markings on them? Did you
17 submit them in this case?

18 MR. CLEVELAND: I did.

19 MR. ROBERTS: I just want to refer to
20 them.

21 THE WITNESS: The last is #5.

22 MR. CLEVELAND: No. #1 and #2.

23 MR. ROBERTS: #1 and #2. All right.

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EXAMINATION

BY MR. ROBERTS:

Q. Ms. Dorsey, I've studied them, and I've had my co-counsel study them. And, Mr. Cleveland, the only thing I can find about any duties in either of these about a vice president -- which I think we've established she was scrivener and vice president -- is that if the president dies or is unable -- and I'm referring to Article II -- Roman numeral II of the bylaws -- then the vice president can perform other duties of the corporation. I may stand to be corrected. The two documents are in evidence.

But assuming that there are no duties set out in either -- for a vice president in either of the I-65 Properties' articles of incorporation or in the bylaws -- now, listen to my question -- assuming that no duties are prescribed, what duties would you think you would be able to perform if they're not authorized as vice president?

1 A. I guess I could call a meeting and say I
2 don't know what the duties are.

3 Q. All right. But assuming there are no duties,
4 did Dick ever tell you what rights you had as
5 a vice president, i.e --

6 A. No.

7 Q. -- if you had any rights?

8 A. No.

9 Q. Okay. Now, you've heard -- we went through
10 this complaint laboriously. And I notice in
11 the complaint that you asked -- I'll start
12 with the factual allegations. One of the
13 allegations in the facts is that Mr. Dorsey,
14 your brother, denied you meaningful
15 participation in the management of the
16 corporate affairs as required under Alabama
17 law.

18 If the vice president doesn't have any
19 prescribed duties in the bylaws or in the
20 articles of incorporation, do you believe you
21 had a right to, as we say here in the factual
22 allegations, have meaningful participation in
23 the management of the corporate affairs?

1 MR. CLEVELAND: Object to the form.

2 Q. Yes or no?

3 A. Yes.

4 Q. Okay. You believe you were denied?

5 A. Right.

6 Q. Okay.

7 A. Correct.

8 Q. I'm sorry. All right. The next one in the
9 factual allegations, Failed to allow you to
10 participate in annual stockholder meetings
11 directly or indirectly with the exception of
12 the meetings.

13 And if you'll tell me how many -- from
14 let's say 1990 to today, approximately how
15 many stockholder meetings did he allow you to
16 participate in, meaning Mr. Dorsey.

17 MR. CLEVELAND: We'll see if her memory
18 has improved. She didn't remember
19 when I asked her that question.

20 MR. ROBERTS: It's because you're a bad
21 guy, and I'm asking them sweet.

22 MR. CLEVELAND: Maybe that's it.

23 THE WITNESS: No. You were very nice.

1 Q. Question, now. See, you got off on that.
2 I'm just asking you for an estimate from -- I
3 want you to listen. I don't think you
4 listened to his questions. From 1990 --

5 MR. CLEVELAND: Well, I think you know
6 she didn't.

7 Q. From 1990 --

8 MR. CLEVELAND: I didn't ask her but
9 six times -- I didn't ask until
10 you objected.

11 Q. From 1990 to the present as we sit here
12 today, will you tell this Court approximately
13 how many times you ever participated in any
14 meetings -- formal meetings -- I'm not
15 talking about Christmas and Thanksgiving --
16 formal meetings in regards to I-65 investment
17 properties -- or I-65 Properties
18 approximately?

19 A. I went to the one in 2005.

20 Q. No. I'm going to ask you the question
21 again. And we're going to stay here all day
22 if we have to. I want you to listen.

23 A. Okay.

1 Q. It's simple. You either know or you don't.
2 From about 1990 --

3 A. That's a long time ago.

4 Q. Okay. That's a statement, not a question.
5 From about 1990 to as we sit here today,
6 approximately how many I'll call them formal
7 meetings did you attend that were held --
8 that was held by I-65?

9 A. One.

10 Q. One. Is that from '90 to today, one formal
11 meeting?

12 A. To the best of my knowledge.

13 Q. Okay. Now -- all right. While Ms. Lindsay
14 Erwin finds it, I'm going to direct your
15 attention --

16 MR. ROBERTS: Cliff, I'm on the bylaws.

17 Q. Now, I'm going to ask you to read it from
18 this one. I want you to read Article VIII.

19 MR. CLEVELAND: The bylaws have been
20 offered twice. The bylaws stand
21 for themselves.

22 MR. ROBERTS: Well, that's fine. This
23 is my turn. You've been from nine

1 o'clock until one. Let me have --

2 MR. CLEVELAND: And you were all day
3 long yesterday.

4 MR. ROBERTS: No --

5 MR. CLEVELAND: I mean, I know what --
6 I know what you're trying --

7 MR. ROBERTS: Cliff --

8 MR. CLEVELAND: I know what you're
9 trying --

10 MR. ROBERTS: Well, let me do it.

11 MR. CLEVELAND: Well, do it right,
12 though.

13 MR. ROBERTS: Okay. I'm going to ask
14 her to read it.

15 Q. Read Article VIII out loud for the court
16 reporter.

17 A. The books of the corporation shall be audited
18 once a year at the close of the fiscal year
19 by a disinterested auditor who shall prepare
20 a balance sheet.

21 Q. Okay. Now, my question -- which he's done a
22 great job of trying to keep me from asking
23 it -- do you know if these bylaws were

1 complied with? Did Dick ever give you an
2 audited copy by a disinterested auditor of
3 the books of I-65?

4 A. No.

5 Q. No. Is that one of the reasons you feel like
6 that you were squeezed out, pushed out? And
7 your whole testimony was I never got a real
8 accounting. Was that what you said earlier?

9 A. Correct. Yes.

10 Q. Do you believe you have a right, as a
11 minority stockholder, to rely on the bylaws
12 of the corporation?

13 A. Yes.

14 Q. Okay. The same article says they will
15 prepare a profit and loss statement. Did you
16 ever get a profit and loss statement?

17 A. No.

18 Q. Okay. Do you know what a profit and loss
19 statement is? Income, expenses; that's what
20 a profit and loss statement is.

21 A. Other than that (indicating).

22 Q. Okay. And are you referring to what I'll
23 call a recapitulation that was provided in

1 2005?

2 A. Yes.

3 Q. And that recapitulation, as I'll call it,
4 went back to 1990, correct?

5 A. Yes.

6 Q. Okay. Or '91. To that date, other than what
7 I'll call the recapitulation which is in
8 evidence, you never got these things
9 annually, meaning '91 --

10 A. No.

11 Q. -- '92; is that right?

12 A. '93 --

13 Q. All the way through. Do you consider a
14 majority stockholder, Dick Dorsey,
15 responsible to abide by the bylaws of this
16 corporation?

17 MR. CLEVELAND: Object to the form.

18 Q. You can answer.

19 A. Yes.

20 Q. Did he abide by the bylaws of this
21 corporation in your opinion?

22 A. No.

23 Q. Did he make every effort in his ability to

1 A. Yes.

2 Q. Okay. You heard Mr. Dorsey say yesterday in
3 his testimony that the reason that the
4 beautiful big sign on the property, the
5 billboard, that the income is not flowing
6 from Lamar Advertising to I-65 was because
7 his son had the permit for the sign? Did you
8 hear him say that?

9 A. Yes.

10 Q. Did you notice that there was a significant
11 difference -- I don't know the exact fact,
12 but it seems like I-65 gets about \$600 a
13 year; and his son, who I think is eight years
14 old, is getting \$600 a month or \$5,400 a
15 year. Did you hear that testimony?

16 A. Yes.

17 Q. Did it cross your mind as to whether or not
18 Mr. Dorsey could have acquired a permit for
19 the sign in the name of his company, I-65
20 Properties, rather than his son? Did that
21 raise any question in your mind?

22 A. Yes.

23 Q. Did that likewise raise any question in your

1 mind as related in this complaint that the
2 profits of I-65 have been diverted by your
3 brother, Mr. Dorsey, from I-65 to his son?

4 A. Yes.

5 Q. Okay. You heard your brother's testimony
6 yesterday; is that correct?

7 A. Yes.

8 Q. If I were to summarize his testimony with
9 regard to the I-65 option on the four tracts
10 of property contiguous to and across from
11 east of the service road, would I be correct
12 in saying that he said that I-65 did have an
13 option on those four tracts at one time?

14 MR. CLEVELAND: Object to the form.

15 Q. You can answer it.

16 A. Yes.

17 Q. Were you aware that I-65 had an option on
18 those four tracts?

19 A. No.

20 Q. Were you aware that Mr. Dorsey, the majority
21 stockholder, either allowed them to expire or
22 transferred them to a corporation known as
23 Connie, Dick & Others, or an LLC or some

1 that. Did Mr. Dorsey either give the
2 corporation, I-65, or you an opportunity to
3 buy that property?

4 A. No.

5 Q. I think Mr. Dorsey indicated yesterday that
6 one reason he did not think I-65 should or
7 could buy it was because it had so much debt
8 and couldn't afford it. Is that your
9 understanding of his testimony?

10 A. Yes.

11 Q. And that was his reason for not offering it
12 to yourself or the corporation; is that
13 correct?

14 A. Yes.

15 Q. You heard Mr. Dorsey's testimony, your
16 brother, stating that -- or asking, I guess,
17 did -- and you were questioned this morning
18 did you ever try to refinance the debt. My
19 question is do you believe the majority
20 stockholder, Mr. Dorsey, had a duty as the
21 majority stockholder to try to refinance the
22 debt?

23 A. Yes.

1 Q. In other words, if the interest rate at
2 certain times was five and a half percent,
3 would the fact that he was charging -- his
4 company, Dorsey Motor Company, was charging
5 12 percent constitute wrongful conduct, in
6 your opinion, by him as the majority
7 stockholder?

8 A. Yes.

9 Q. Would that be even more so where it's his own
10 flesh and blood; it's you, his sister, that
11 he's charging?

12 MR. CLEVELAND: Object to the form.

13 Q. You can answer.

14 A. Yes.

15 Q. Did that hurt your feels?

16 A. Yep. Yes.

17 Q. But you didn't find out about the 12 percent
18 until way late in the game, did you?

19 A. Correct.

20 Q. Okay. You don't really understand the
21 difference sometimes between -- or do you
22 understand the difference between you as a 30
23 percent stockholder of I-65 and you as a

1 retired teacher?

2 I'll restate it. I'm asking you what
3 led up to your agreeing to convey your share
4 to Mr. Dorsey in exchange for his forgiving
5 the debt. Are you with me on that?

6 A. Yes.

7 Q. Okay. Follow me. When Mr. Dorsey -- or did
8 there come a time when Mr. Dorsey told you
9 that you -- and I mean you, not you as a
10 minority stockholder.

11 A. Right.

12 Q. -- owed 500,000 plus debt?

13 A. Yes.

14 Q. Did you understand that, at that time, you
15 never signed a note?

16 A. Correct.

17 Q. Did you understand at that time that you
18 might, as a result of his comment that you
19 owed it, lose your home, business?

20 A. Yes.

21 Q. Did that frighten you?

22 A. Extremely. Yes.

23 Q. Did he ever tell you, Donna, the corporation

1 is the only one that owes the debt and the
2 worst that could ever happen is I, Dorsey
3 Motor, could foreclose on the corporation,
4 I-65, and take the property if it was a valid
5 debt? Did he tell you that?

6 A. No.

7 Q. Did you understand that you would have no
8 personal liability if Mr. Dorsey -- and we're
9 assuming if he holds this to the year 2090,
10 the debt is going to increase.

11 A. Yes.

12 Q. Did he ever tell you that the worst you could
13 lose would be your share, your 30 percent of
14 the property?

15 A. No.

16 Q. Did he ever tell you that if he foreclosed on
17 the property, he, Dorsey Motor Sales, would
18 have ordinary income of approximately
19 \$1,700,000?

20 MR. CLEVELAND: Mr. Roberts, I mean,
21 you're --

22 A. No.

23 MR. ROBERTS: She can answer.

1 MR. CLEVELAND: Hey, no.

2 MR. ROBERTS: No?

3 MR. CLEVELAND: I'm going to object.

4 You're testifying for her. You're
5 not asking --

6 MR. ROBERTS: I thought that was a
7 question.

8 MR. CLEVELAND: No, it wasn't. You are
9 creating a scenario. You are
10 creating scenario. I mean, you
11 can ask her did he ever tell you
12 you were going to go to the moon.
13 I mean, it --

14 Q. Did he ever tell you you were going to go to
15 the moon?

16 A. No.

17 MR. CLEVELAND: Did he ever tell you he
18 was going to go to the moon?

19 MR. ROBERTS: Did you want to object to
20 that? I allowed you free reins
21 with her. I let you run in an 80
22 acre field with her and never
23 objected but once.

1 MR. CLEVELAND: I ran in an 80 acre
2 field and kept my questions
3 directed to the allegations before
4 us. All you're doing is
5 testifying -- or attempting to
6 testify for her and creating these
7 scenarios and saying follow me,
8 follow me, and she's sitting there
9 saying yes and no. She hasn't
10 given a substantive answer yet.

11 MR. ROBERTS: Oh, really?

12 MR. CLEVELAND. No. That's my opinion.

13 MR. ROBERTS: Well, when you said no,
14 that strikes me as being a
15 substantive answer.

16 MR. CLEVELAND: Well, I thought you
17 said her answers were I don't
18 know, maybe. But --

19 MR. ROBERTS: Maybe I'm making the
20 questions where she can understand
21 them. All I'm saying --

22 MR. CLEVELAND: No, what you're doing
23 is you are --

1 MR. ROBERTS: I consider you a good
2 lawyer. And you are --

3 MR. CLEVELAND: -- attempting to
4 testify for her. And it's totally
5 improper.

6 MR. ROBERTS: Well, let me try to see
7 if I -- I don't think I was. But
8 let's go forward, and let me ask
9 her straight questions. I'm not
10 giving her answers. I'm asking
11 her straight questions. And
12 here's one, for example.

13 Q. Have you been kept in the dark and not
14 allowed to participate in the day-to-day
15 decisions of I-65 Properties?

16 MR. CLEVELAND: And I would object to
17 the form of that.

18 Q. And you can answer, Donna.

19 MR. CLEVELAND: You know, what does
20 keep in the dark -- kept in the
21 dark mean?

22 Q. You can answer.

23 MR. ROBERTS: And you can object to

1 form.

2 Q. You may answer the questions.

3 A. Yes.

4 Q. And is that one of the basis of your --
5 continuing basis of your complaint against
6 the majority stockholder: That he has failed
7 to inform you, failed to hold regular
8 meetings, failed to audit the balance sheet
9 as required by the bylaws, failed to provide
10 profit and loss statements? Are those some
11 of the allegations in your complaint?

12 A. Yes.

13 Q. Does transferring -- I think I've already
14 asked you, but I want to keep it simple for
15 Mr. Cleveland. Does obtaining a lease for
16 his son on a billboard which creates revenue
17 for his son and not for I-65 in your opinion
18 constitute all through your complaint an
19 abuse by him as majority stockholder?

20 A. If that's true, yes.

21 Q. Okay. If he testified to that yesterday, do
22 you have any reason to disagree with your
23 brother's testimony that that's what he did?

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1 don't recall.

2 MR. ROBERTS: Go slow so she can get
3 it.

4 MR. CLEVELAND: Oh, she can get it.
5 She's good.

6 Q. In fact, Ms. Dorsey, it's good that he said
7 hand feed, because I noticed when you were
8 answering questions, every answer to the
9 question he asked you was contained in the
10 complaint. Specifically like why did he do
11 this, and said he did this because. But
12 that's okay. He hand fed you a little bit;
13 maybe I'll hand feed you.

14 MR. ROBERTS: All right. And I will
15 point out for Mr. Cleveland that
16 my client teared up twice where
17 yours didn't, and perhaps she is
18 under a little emotional pressure
19 and maybe didn't understand either
20 of our questions. But let's go
21 ahead.

22 MR. CLEVELAND: Appreciate you pointing
23 that out to me. I missed it.

1 MR. ROBERTS: Okay. Well, you were too
2 busy laughing.

3 MR. CLEVELAND: No, I was laughing at
4 you is what I was laughing at.

5 MR. ROBERTS: Oh, okay. Off the
6 record.

7 (Off-the-record discussion)

8 Q. So would you say, Ms. Dorsey -- Ms. Davis,
9 excuse me, that Dick's testimony yesterday
10 that you heard, when one reads it in his
11 deposition, without me summarizing all of it,
12 that his testimony alone is a basis for your
13 allegation of freeze out, failure to keep
14 informed, all of the allegations in your
15 complaint?

16 A. Yes.

17 Q. You're a retired school teacher, aren't you?

18 A. Yes.

19 Q. And Mr. Cleveland is an accomplished lawyer.
20 You said you liked him, didn't you?

21 A. Yes.

22 Q. Okay. That's the two yeses. You like him
23 and he's an accomplished lawyer, right?

1 A. Yes.

2 Q. Okay. When he went over this complaint with
3 you, you didn't draft the complaint yourself,
4 did you?

5 A. No.

6 Q. You simply gave -- did you give information
7 to your lawyer at that time, Ms. Erwin, upon
8 which she put all the legalese of what we'll
9 call your grievances against Dick?

10 A. Yes.

11 Q. Okay. So when he -- I won't say grilled, but
12 when he went over that complaint with you and
13 asked you all these questions, although
14 you're not on any drugs, were you in a total
15 state of confusion, yes or no, as to legal
16 terms?

17 A. Yes.

18 Q. Okay. Now, at the time the alleged
19 promissory note was signed, it was signed by
20 Dick Dorsey, 70 percent stockholder and
21 president, and his, at that time, wife,
22 Connie Dorsey; is that right?

23 A. Yes.

1 Q. Okay. Since neither the bylaws or the
2 articles of incorporation provide for any
3 duties of the vice president, is it your
4 opinion that that's why they didn't ask you
5 to sign the note?

6 MR. CLEVELAND: I object to the form.

7 She would have no way of knowing
8 the mental operation of either
9 Dick or Connie Dorsey.

10 Q. Okay. Did the fact that you didn't sign the
11 note, in your opinion, give rise to the fact
12 that you didn't know about such a note until
13 much later?

14 MR. CLEVELAND: Object to the form.

15 A. Yes.

16 Q. You can answer. Answer.

17 A. Yes.

18 Q. Okay. Mr. Cleveland opened the door as to
19 had you ever -- how many times, was his
20 question, had you sued your brother? Did you
21 hear him ask you that?

22 A. Yes.

23 Q. And your answer was, to my knowledge, none,

1 you wanted in this lawsuit. I think you've
2 already testified you'd like for Mr. Dorsey
3 to get an independent MAI appraisal; is that
4 correct?

5 A. That would be nice.

6 Q. And that would help you, as a minority
7 stockholder, to make up your mind as to
8 whether or not -- if he presents an offer to
9 you, whether or not to accept it or reject
10 it; is that right?

11 A. Yes.

12 Q. Okay. Do you think failing to have the
13 property appraised in all these years with
14 the massive -- I think the Court will take
15 notice of the massive growth at this
16 intersection -- probably the most in the
17 state -- is negligence on his part not having
18 an appraisal?

19 A. Yes.

20 Q. I'm going to ask you this, Ms. Dorsey --
21 Ms. Davis. I'm conceding that after he told
22 you you personally -- you perceived that you
23 personally would owe 500,000 plus debt; is

1 that correct?

2 A. Yes.

3 Q. That's your earlier testimony. And I think
4 you testified that it frightened you; isn't
5 that right?

6 A. Definitely. Yes.

7 Q. So at that point, all you wanted was out; is
8 that correct?

9 A. Yes.

10 Q. You hadn't spoken to a lawyer?

11 A. No.

12 Q. Or an accountant?

13 A. Nope.

14 Q. And Dick wrote you at a point and said it
15 sounds good, right?

16 A. I called him, and he said it sounds good.

17 Q. Okay.

18 A. But that he had to talk to his accountant.

19 Q. As majority stockholder and you minority, him
20 president, you vice president with no duties
21 that I can see prescribed, would he have had
22 a better opinion -- and this is in your
23 opinion -- of the market value of the

1 property and thus whether it was a good deal
2 for the minority stockholder, meaning you, to
3 sell out to him?

4 A. Yes, I think so.

5 Q. Did he suggest to you, Donna, I want to be
6 fair with you so let's get the property
7 appraised and that way I can buy your share
8 for the debt? Did he suggest that?

9 A. No.

10 Q. In fact, he's basically been camped out on
11 this property on one side of the freeway or
12 another for years, hasn't he? The Suzuki
13 dealership, Victory. He's been here almost
14 every day of his life in Prattville, Alabama
15 except when he was traveling; is that
16 correct, to your knowledge?

17 A. Yes.

18 Q. Adult life I should say. And I think the
19 record shows that for many of these years,
20 you lived either in Greenville or Birmingham;
21 is that correct?

22 A. Atlanta.

23 Q. So you --

1 A. Birmingham.

2 Q. You, as a minority stockholder, would have
3 had very little opportunity to observe the
4 growth or, for that matter, what was going on
5 with the I-65 property; is that correct?

6 A. Yes. When I came down to take care of mamma
7 I certainly -- I mean, I certainly saw
8 changes when we would visit. But when it
9 really started booming --

10 Q. Now, that's interesting. When you came down
11 to take care of mamma. I think you testified
12 on direct that your mother suffered a serious
13 stroke; is that correct?

14 A. Yes.

15 Q. Approximately how long did you take care of
16 mamma? From the time of the stroke to her
17 death, approximately how long was that? How
18 long did you actually take care of her?

19 A. Almost nine years.

20 Q. Did you hire sitters during that time?

21 A. Yes.

22 Q. Did you sit yourself?

23 A. Yes.

1 Q. Okay.

2 A. If it happened.

3 Q. Ms. Davis, final question. Do you believe
4 that not only as your brother but as the
5 majority stockholder, that Mr. Dick Dorsey
6 has a duty to treat you fairly as a minority
7 stockholder in I-65?

8 A. Yes.

9 Q. Do you believe that he did treat you fairly?

10 A. No.

11 MR. ROBERTS: Any follow-up,
12 Mr. Cleveland?

13 EXAMINATION

14 BY MR. CLEVELAND:

15 Q. Ms. Davis, I understood one of your responses
16 to be that you want Dick to buy you out; is
17 that right? Out of the property?

18 A. I think that is a nice possibility.

19 Q. Is that why you want the appraisal, so he can
20 buy you out?

21 A. I want the appraisal to know what the land is
22 worth.

23 Q. Do you have someone that's interested in the

1 land?

2 A. Me personally, no.

3 Q. Well, has anyone told you that they were
4 interested in the land?

5 A. No.

6 Q. Okay. But you want -- you're just kind of
7 wondering what it's worth? Is that what
8 you're telling us?

9 A. Exactly.

10 Q. Don't you agree with me -- or wouldn't you
11 agree with me that it would be much more
12 appropriate to have an appraisal done when
13 you have someone that is a legitimate buyer
14 than just to randomly have appraisals done
15 and incur those expense on a periodic basis?

16 A. I think, due to the number of years, it would
17 be very smart to have an appraisal of the
18 land at this point.

19 Q. To use in what way? How are you going to
20 utilize the appraisal?

21 A. Well, I think when -- when you own 30 percent
22 of something and you don't know what it's
23 worth, that that's not very good. I think

1 anybody would want to know what it's worth.

2 Q. Have you --

3 A. An owner.

4 Q. Have you ever asked Dick to have an appraisal
5 done, yes or no?

6 A. I have to think. I can't just say no, I
7 didn't. And then what if I had? And then
8 I've answered you, and then I really don't
9 know.

10 Q. Well, you had a real fast yes or no to
11 Mr. Roberts' questions. I just thought maybe
12 you could give me a real fast yes or no.

13 A. Well, you asked me about something did I, you
14 know.

15 Q. Yeah. Did you ever ask him to have an
16 appraisal done, yes or no?

17 A. Not to my knowledge, no.

18 Q. Okay. Did you ever ask him for a copy of an
19 audit, yes or no.

20 A. That's what I thought we got in the meetings.

21 Q. Did you ever ask him for a copy of an audit,
22 yes or no?

23 A. Yes.

1 Q. When?

2 A. I don't know. I don't recall.

3 Q. Don't recall. Maybe, perhaps. Did you ever
4 ask him for a financial statement, yes or no?

5 A. Yes.

6 Q. When? Don't recall, correct?

7 MR. ROBERTS: Now, we'll move -- it's
8 okay for her to ask you questions,
9 but you don't ask and answer them,
10 okay? I can direct you to Article
11 VIII of the bylaws, which --

12 Q. Did you understand as a shareholder that you
13 had the right to call a shareholder meeting?

14 A. No, I didn't.

15 Q. Did not know that. Did you understand that
16 as a shareholder that you had a right to ask
17 for a copy of the profit and loss or any
18 other corporate records?

19 A. We did request -- it was requested, but it
20 didn't happen.

21 Q. Okay.

22 A. It was asked for, but it didn't -- there was
23 no response.

1 Q. Do you recall the correspondence back to your
2 attorney, Ms. Erwin, that said that you or
3 your auditor or anyone could go up to Alan
4 Taunton's office and go through any of these
5 records whenever you wanted? Do you recall
6 that correspondence?

7 A. No.

8 MR. ROBERTS: It's in this one.

9 Mr. Cleveland, I'll submit there
10 has been a document in evidence
11 where Mr. Taunton responded and
12 said if there are any other
13 questions, you can come to my
14 office and I'll go over them with
15 you.

16 MR. CLEVELAND: That was my
17 recollection, but I can't see
18 that.

19 MR. ROBERTS: Well, you're correct.

20 MR. CLEVELAND: I can't see that.

21 MR. ROBERTS: And somewhere, as her
22 attorney, I'll remind her that
23 there is a document perhaps in the

1 rest of those exhibits. But in
2 the interest of time, that
3 Mr. Taunton -- now, it did come at
4 a matter of time, maybe 2005 or --

5 MR. CLEVELAND: Yeah. Well, I want her
6 to look at it. Perhaps it will
7 refresh her recollection as to
8 some other issues.

9 I'm going to come over and
10 look over her shoulder if I may.

11 MR. ROBERTS: Sure. You may approach
12 the witness.

13 Q. I didn't ask you about this. I'm glad
14 Mr. Roberts reminded me of it. Do you recall
15 this exhibit from yesterday?

16 A. Yes.

17 Q. Okay. Did your attorney forward a copy of
18 that correspondence to you in February of
19 '06?

20 A. I think so, yes.

21 Q. Okay. The correspondence says that on
22 October the 18th of 2003, he sent you copies
23 of the tax returns for '98, '99, 2000, 2001,

1 and 2002. Do you acknowledge receipt of
2 those tax returns?

3 A. You'd have to talk to my husband.

4 Q. Okay. Do you have any recollection of
5 receiving those tax returns?

6 A. You'd have to talk to my husband.

7 Q. Would your answer be, then, that you have no
8 recollection?

9 A. I have no recollection.

10 Q. That's -- that was my --

11 A. That was 2003. So --

12 Q. And that was my question. Do you have any
13 recollection?

14 A. No.

15 Q. And your answer is, no, I don't?

16 A. No.

17 Q. But I guess a follow-up to the answer would
18 be, but my husband may know something about
19 it?

20 A. Yes.

21 Q. Okay. Now, he also says that the 2003 and
22 2004 -- and he didn't know if Mr. Dorsey had
23 forwarded you a copy or not. Do you see

1 that?

2 A. Yeah. Okay.

3 Q. Okay. He said if he didn't, I'll be happy to
4 provide a copy. Do you have any recollection
5 of asking for or receiving the '03 or '04 tax
6 returns for I-65?

7 A. You'll have to ask Jack.

8 Q. But you have no recollection of that?

9 A. No.

10 Q. He also says that it should be a fairly
11 straightforward task to verify the debt of
12 the company.

13 A. Okay.

14 Q. Did you make any effort, prior to filing this
15 lawsuit, to exercise that straightforward
16 task of verifying the debt of the company?

17 A. You'll have to ask Jack.

18 Q. Did you?

19 A. No.

20 MR. ROBERTS: Objection to the form of
21 your question, because I don't
22 know if debt includes expenses of
23 cleaning the property or if you're

1 referring to debt meaning the
2 infamous note to brother Dick.

3 MR. CLEVELAND: I'm --

4 MR. ROBERTS: I'm just asking --

5 MR. CLEVELAND: She said that she had
6 received this correspondence.

7 MR. ROBERTS: I'm just asking you if
8 debt means -- if your question was
9 if debt means the note -- I'm not
10 trying to be picky. Just if it
11 means the note or if debt of the
12 corporation meant cost of cleaning
13 the property, paying taxes, and
14 things like that.

15 MR. CLEVELAND: This is not my letter,
16 so I don't know.

17 MR. ROBERTS: Well, you can ask her --

18 MR. CLEVELAND: Yeah.

19 MR. ROBERTS: She can answer
20 anything --

21 Q. My real question is did you make any effort
22 to exercise this option for the debt,
23 whatever debt may mean?

1 A. Me personally --

2 Q. And I think the answer was no.

3 A. -- no.

4 Q. Okay.

5 A. Right.

6 Q. Okay. And this is also -- I believe this --
7 and Mr. Roberts was right. This was the
8 correspondence that I was thinking about.
9 And he says if you want to come up and look
10 at the books or have your auditor audit the
11 books, you're welcome to do so. Did anyone
12 exercise that option?

13 A. You'll have to ask Jack.

14 MR. ROBERTS: Just on a follow-up on
15 that when you get through. I
16 wasn't rushing you. We can
17 follow-up on that. We can do this
18 all day.

19 Q. You testified a moment ago to a question
20 presented to you by Mr. Roberts that learning
21 about the sign was the basis for your
22 lawsuit, did you not? That in and of itself
23 would constitute the basis for your lawsuit?

1 A. What?

2 Q. They lived over on Adell?

3 A. Yes.

4 Q. Yeah.

5 A. Yes. We didn't -- if we went -- I mean, we
6 played golf sometimes. But basically we were
7 there. It wasn't go out to restaurants and
8 stuff. It was stay at the house.

9 Q. So you were not aware of the growth that was
10 taking place out Main Street or Cobbs Ford or
11 out Highway 14 toward --

12 A. As it gradually happened, yeah.

13 Q. Okay.

14 A. I mean, we'd go down to Hope's and downtown
15 and -- but we didn't -- it was simple
16 things.

17 MR. CLEVELAND: Okay. That's all I
18 have. Thank you.

19 MR. ROBERTS: About two follow-ups.

20 EXAMINATION

21 BY MR. ROBERTS:

22 Q. He showed you -- Mr. Cleveland showed you a
23 February 3rd, 2006 letter with a marked

1 Plaintiff's Exhibit #9. And you're not sure
2 if you got the tax returns. Your testimony
3 was, if I did, Jack would be able to answer
4 that.

5 A. Correct.

6 Q. Okay. Now, think with me. Do you think that
7 providing tax returns -- and we're assuming
8 the date of the letter, February 3rd, 2006 --
9 for eight years ago -- meaning he says '98,
10 '99, 2000, 2001, 2002 -- is that timely to be
11 provided these tax returns?

12 MR. CLEVELAND: Object to the form.

13 Q. You can answer.

14 A. No.

15 Q. Would it have been nice for the president to
16 have authorized the accountant or perhaps
17 even made a copy of the tax returns and
18 mailed them to you?

19 A. Yes.

20 MR. CLEVELAND: Object to the form.

21 Q. Are you offended because he didn't?

22 MR. CLEVELAND: Object to the form.

23 A. Yes.

1 Q. Is that part of your complaint in the --

2 MR. ROBERTS: Continuing object to the
3 form.

4 Q. Is that part of the complaint contained in
5 the complaint you filed against your brother?

6 MR. CLEVELAND: Object to the form.

7 A. Yes.

8 Q. Okay. Now, I'm looking again at what I'll
9 call the bullet document, the bylaws. And I
10 think bylaws -- and I think Mr. Cleveland
11 will admit that every stockholder is deemed
12 to know the bylaws of the corporation. Do
13 you understand that?

14 A. Yes, I do.

15 Q. Okay. When I think as I call it the bullet,
16 if -- I'm not an accountant, and you're a
17 school teacher. But if the bylaws required
18 every single year that a balance sheet be
19 prepared, it is my understanding and I submit
20 to you that a balance sheet is the value of
21 the assets of the company less the
22 liabilities which gives you the net worth.
23 In other words, what we own, the value of

1 what we own, what we owe, and you're either
2 positive or negative somewhere down there.
3 Is that your understanding of a balance
4 sheet?

5 MR. CLEVELAND: Object to the form.

6 A. Yes.

7 Q. Okay. Do you consider the fact that -- well,
8 let me strike that. Without an appraisal --
9 assuming Mr. Dorsey had followed the bylaws
10 of which he's the majority stockholder, how
11 could anyone know, to prepare a balance
12 sheet, what the value of the assets are
13 without an appraisal? Help me with that.

14 A. I don't know.

15 Q. Do you think -- I guess I'm missing
16 something. But perhaps Dick Dorsey had the
17 right to ignore, as majority stockholder,
18 Article VIII of the bylaws of the company.
19 Do you think he had a right to ignore that?

20 MR. CLEVELAND: Object to the form.

21 A. No.

22 Q. Had he abided by that and provided you with
23 an audited, by a disinterested party, balance

1 sheet, profit and loss statement during all
2 of those years, do you think you'd have a
3 complaint against him as we sit here today?

4 MR. CLEVELAND: Object to the form.

5 A. No.

6 MR. ROBERTS: She can answer it.

7 MR. CLEVELAND: She did.

8 MR. ROBERTS: No further questions.

9 MR. CLEVELAND: I have none.

10 MR. ROBERTS: Thank you. Thank you,

11 Mr. Dorsey.

12 (The deposition concluded at

13 2:02 p.m.)

14 * * * * *

15 FURTHER DEPONENT SAITH NOT

16 * * * * *

REPORTER'S CERTIFICATE

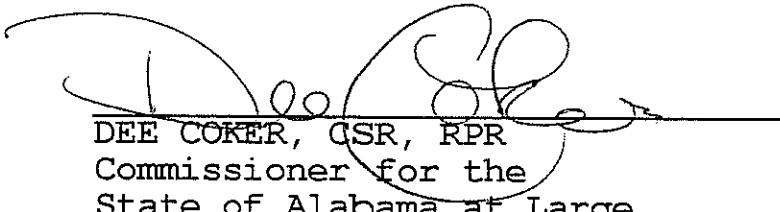
STATE OF ALABAMA

ELMORE COUNTY

I, Dee Coker, Registered Professional Reporter and Commissioner for the State of Alabama at Large, hereby certify that on Tuesday, March 13, 2007, I reported the deposition of DONNA DORSEY DAVIS, who was first duly sworn or affirmed to speak the truth in the matter of the foregoing cause, and that pages 4 through 207 contain a true and accurate transcription of the examination of said witness by counsel for the parties set out herein.

I further certify that I am neither of kin nor of counsel to any of the parties to said cause, nor in any manner interested in the results thereof.

This 16th day of March, 2007.



DEE COKER, QSR, RPR
Commissioner for the
State of Alabama at Large

MY COMMISSION EXPIRES: 1/25/2009

DUNN, KING & ASSOCIATES

Montgomery, Alabama

(334) 263-0261 or (800) 359-8001

EXHIBIT “2”

Deposition of Richard Dorsey

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DONNA DORSEY DAVIS,

Plaintiff,

vs.

CASE NO. 2:06CV766-MHT

RICHARD M. DORSEY, etc.,
and CD&O, LLC, etc.,

Defendants.

* * * * *

DEPOSITION OF RICHARD M. DORSEY, taken
pursuant to stipulation and agreement before Dee
Coker, Registered Professional Reporter and
Commissioner for the State of Alabama at Large,
in the Law Offices of Cleveland & Colley, 744
East Main Street, Prattville, Alabama, on Monday,
March 12, 2007, commencing at approximately
10:03 a.m.

* * * * *

APPEARANCES

FOR THE PLAINTIFF:

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Attorney at Law
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Phenix City, Alabama 36867

FOR THE DEFENDANTS:

Mr. Clifford W. Cleveland
CLEVELAND & COLLEY
Attorneys at Law
744 East Main Street
Prattville, Alabama 36067

ALSO PRESENT:

Ms. Donna Dorsey Davis

* * * * *

EXAMINATION INDEX

RICHARD M. DORSEY
BY MR. ROBERTS 5

EXHIBIT INDEX

PLAINTIFF'S EXHIBIT NO.:

1	Certificate of Incorporation of I-65 Properties, Inc.	9,167
2	Name Reservation Certificate for I-65 Properties, Inc.	10

DUNN, KING & ASSOCIATES

Montgomery, Alabama

(334) 263-0261 or (800) 359-8001

1 Cleveland, this -- your attorney?

2 A. Yes.

3 Q. All right. Now, I understand that there came
4 a time -- and I want to get some documents in
5 because, as I said, most of this goes back to
6 the '90s. And there came a time when there
7 was an incorporation of a company called I-65
8 Properties, comma, Incorporated; is that
9 correct --

10 A. Correct.

11 Q. -- to the best of your knowledge? Okay. I
12 call this housekeeping, just to get them in
13 so that when we question --

14 MR. ROBERTS: Here's a copy,
15 Mr. Cleveland. Here's a copy of a
16 document, and we'll mark that
17 Plaintiff's #1, please.

18 Q. Does that appear, to the best your knowledge,
19 to be a copy of the certificate of
20 incorporation of the company?

21 A. Yes.

22 Q. All right. And I notice the date is the 9th
23 day of October, 1990, and it is sealed by the

1 Judge of Probate and signed by the Judge of
2 Probate. So for our purposes here today, we
3 can assume that this is a correct copy of the
4 certificate of incorporation; is that
5 correct?

6 A. Yes.

7 Q. All right. Now, I likewise --

8 MR. ROBERTS: Let me give your attorney
9 a copy of this. We'll mark this
10 Plaintiff's #2.

11 Q. I'll go ahead and give this to you. This
12 appears to be a recognition by the Secretary
13 of State as to the name reservation for I-65
14 Properties, Inc. Does that appear to be a
15 correct document to you?

16 A. Yes.

17 Q. Okay. And it appears to be dated -- the name
18 was reserved September 24th of 1990.

19 MR. ROBERTS: All right. Plaintiff's
20 #3 in order.

21 Q. I'll next show you a certificate -- excuse
22 me -- articles of incorporation which are
23 dated -- stamped by the Elmore County Circuit

1 incorporation -- or the original
2 bylaws.

3 Q. Are those your initials, RMD, to the best of
4 your knowledge?

5 A. Yes.

6 Q. Okay. And absent -- and without regard to
7 any markings that may be on it, it looks like
8 there's some typos. Well, the word on page 9
9 says, certificate property endorsed, someone
10 has slashed in properly; but we will
11 stipulate that anything other than the typed
12 word is what you've signed. And that is your
13 signature attached hereto; is that correct?

14 A. Yes.

15 Q. Okay. And that document is likewise dated
16 the 1st day of October, 1990.

17 MR. ROBERTS: This will be Plaintiff's
18 #5 in order.

19 Q. Okay. Does that appear to be a true and
20 correct copy of a note signed October 1st,
21 1990, a promissory note from I-65 Properties
22 to Dorsey Motor Sales, Inc.?

23 A. Correct.

1 Q. Okay. And it is attested by Connie Dorsey.
2 Now, I believe that was your -- she was your
3 wife at the time; is that correct?

4 A. Yes.

5 Q. Is she still -- does she still live in
6 Prattville?

7 A. Yes.

8 Q. And it shows you as president. Who do -- who
9 is the current secretary of I-65 Properties,
10 Inc., if you know?

11 A. I -- I'd have to look at the minutes.

12 Q. Okay. And who normally keeps the minutes?
13 Who drafts the minutes of I-65?

14 A. Either Mr. Cleveland's office or my secretary
15 over at the dealership.

16 Q. Is that Ms. Perry?

17 A. Yes.

18 Q. That is her. Okay. Now, I may be skipping
19 around a little bit; but I understand, just
20 for the record, that from about 1990, the
21 inception of the corporation, until maybe
22 2000 -- somewhere, give or take, around
23 2000 -- there were no minutes taken of the

1 corporation; is that correct?

2 A. I haven't looked at my records, so I can't
3 answer that.

4 Q. All right. And how would we -- where are the
5 records of I-65 kept?

6 A. Kept at the dealership.

7 Q. Okay. Kept in a file cabinet or --

8 A. I would say so.

9 Q. If your sister said that between the year --
10 from the inception of the corporation until
11 2000, there were no meetings held of the
12 corporation and she didn't receive any
13 correspondence during that period, would you
14 have any reason to disagree with that?

15 A. I wouldn't think that would be correct.

16 Q. Okay. If I asked your attorney to provide
17 all the minutes and records and, of course,
18 at our expense, the copying, would you have
19 any problem with agreeing to furnish all the
20 minutes from the inception of the corporation
21 to the current date?

22 A. No.

23 Q. All right. Let me see what else I need to

1 get, and then we'll go to some questions.

2 All right. Now, I'm informed, back to
3 the I-65 investment -- and I'll just -- for
4 the record, I'll just call it I-65 -- that
5 there came a time in 1990 when Dorsey Motor
6 Sales was defending a lawsuit regarding the
7 running back of a speedometer. Does that
8 ring a bell to you? Are you -- do you
9 remember that?

10 A. No. Had nothing to do with that.

11 Q. I mean, are you aware that there was such a
12 lawsuit?

13 A. Oh, there's been several lawsuits.

14 Q. All right. Are you aware that sometime
15 around '88, '89, '90, there was a particular
16 lawsuit that involved the turning back of a
17 speedometer?

18 A. No.

19 Q. All right. Let's go back to Mr. -- your dad,
20 Richard T. Dorsey, and your mother owned --
21 about the time that this transfer -- that the
22 I-65 was formed, I think they owned 60
23 percent, together, of Dorsey Motor Sales and

1 you owned 40 percent; is that a correct
2 statement?

3 A. That's correct.

4 Q. Okay. Now, I'm also informed that sometime
5 around the inception of this corporation,
6 I-65, that Mr. and Mrs. Dorsey elected to
7 make a gift of 30 percent of a parcel of
8 property that we'll refer to in a minute as
9 the I-65 nine point some acres and that she
10 gave that 30 percent -- by she, your mother
11 and dad -- gave that 30 percent to Donna; is
12 that correct?

13 A. No.

14 Q. That's not correct. All right. Then I'm
15 also incorrect if I say that since they owned
16 60 percent of the dealership and you owned
17 40, meaning the Chrysler dealership, Dorsey
18 Motor -- it is Dorsey Motor Sales back then?
19 Is that the correct name?

20 A. Correct.

21 Q. Okay. And that since you owned 40 percent,
22 that they gave you a 30 percent, Donna a 30
23 percent; and since you already owned 40 of

1 the dealership, that's how we got to the 70
2 percent of I-65 owned by you and 30 by
3 Donna. Is that incorrect?

4 A. That's incorrect.

5 Q. Tell me how I-65 wound up owning -- you
6 owning 70 percent of the stock and Donna
7 owning 30.

8 A. My father and I had had a discussion
9 concerning the property that Dorsey Motor
10 Sales, Inc., owned at I-65. And we decided
11 that the property was vulnerable connected to
12 Dorsey Motor Sales and the automobile
13 business at that time due to litigation in
14 the state, the atmosphere of litigation. And
15 we elected to move the property out of Dorsey
16 Motor Sales, Inc., into a company called I-65
17 Properties, Inc.

18 Q. Okay. And how had Dorsey Motor Sales
19 acquired the property we're referring to, the
20 nine point something acres?

21 A. They purchased it.

22 Q. And who did they purchase it from?

23 A. From the Cobb family.

1 Q. Okay. And approximately what year did they
2 purchase it?

3 A. 1987.

4 Q. And roughly how much did they pay -- did
5 Dorsey pay for it?

6 A. \$100,000.

7 Q. Okay. And when you say a somewhat -- I don't
8 want to misquote you, but a bad environment,
9 were -- what do you mean by that as far as
10 the dealership deciding to transfer it out?

11 A. Just that there was a bad legal environment
12 in the state at that time versus car dealers.

13 Q. Okay. And help me with that. Not being a
14 car dealer, I don't -- I don't know what a
15 bad environment was.

16 A. There was a lot of litigation going on in the
17 state.

18 Q. And what was the nature of the litigation?

19 A. Frivolous.

20 Q. Okay. Frivolous what?

21 A. Frivolous litigation.

22 Q. All right. Now, I submit to you that in
23 1990, I represented numerous car dealers in

1 Alabama. And one of them, Lonnie Russell
2 Ford, Stokes Chevrolet, Art Blue Chevrolet in
3 Decatur. And as attorney for them, I don't
4 remember any frivolous litigation. So I'm
5 not trying to tie you down, but I think we're
6 going to need -- in order to make me
7 understand what you're saying, I'm going to
8 have to have a little more suits for -- I
9 thought it was what we used to call tuning up
10 speedometers.

11 A. That has nothing to do with it.

12 Q. Okay. No bondo in the side, no banana peels
13 in the transmissions to make them run better?

14 A. No.

15 Q. Okay. Well, now, I've given you three that I
16 know were occurring, not by our dealerships;
17 but help me with what -- this pervasive cloud
18 over the automobile industry in 1990, since I
19 don't know.

20 A. I don't really recall, but I remember there
21 was a lot of litigation going on in the
22 state.

23 Q. Okay. So it just behooved Mr. Dorsey, R.T.,

1 your dad, and you. Who else was in on the
2 decision to transfer that property out of
3 I-65?

4 A. Our mother.

5 Q. Okay. And that would be Mrs. -- your
6 mother's name again?

7 A. Ann.

8 Q. Ann Madre Dorsey, right. All right. How did
9 y'all decide that Donna, your sister, would
10 only get 30 percent and you would get 70 of
11 I-65?

12 A. My father asked me to consider my sister in
13 moving the land out of the dealership into
14 the corporation.

15 Q. And help me with consider. What did he mean
16 by consider?

17 A. I'm not really sure, but I took it as meaning
18 to give her some of that land.

19 Q. Okay. And I totally agree with your -- I
20 don't think he meant to say it, but to give
21 as opposed to sell. Was that just a mistake
22 of words on your part?

23 A. He asked --

1 Q. It's my position that it was a gift.

2 A. No, it was not a gift. It was a sale.

3 Q. So you would like to change that and say it
4 was the family decision to sell my sister 30
5 percent and me 70; is that right?

6 A. It was the family position to move the land
7 out of Dorsey Motor Sales, Inc., and sell it
8 to another corporation, I-65 Properties,
9 Inc. My father then asked me to consider my
10 sister in this matter.

11 Q. Okay. But the fact that you owned 40 percent
12 of Dorsey Motor Sales and that Donna got 30
13 and that you would have gotten your 40 that
14 you owned plus a 30, you're saying that's
15 just a coincidence; that those numbers just
16 happened to be she gets 30, you got an
17 additional 30 -- because you already owned 40
18 percent of the assets of Dorsey Motor Sales?
19 So it is strictly a coincidence; is that
20 right?

21 A. That was the formula that I came up with when
22 I met back with my mother and father two
23 weeks later.

1 Q. Okay. And by that formula, you indicated
2 since I own 40 percent, it would only be fair
3 for Donna to only get 30; I own 40. And
4 whether it was a gift or a sale, the
5 additional 30 would go to you. I mean, that
6 makes sense. Is that --

7 A. That's not the way I looked at it.

8 Q. Well, help me. How did you look at it?

9 A. I looked at it as if my mother and father
10 were both deceased at the same time and that
11 my sister would get half of the estate and I
12 had get the other half; therefore, 30 and 30.

13 Q. Well, I'm sorry, then. I totally apologize.
14 That's exactly what I was -- the point I was
15 trying to make. And you already owning 40
16 percent and the land was in Dorsey Motor
17 Sales, it -- it wouldn't be fair for you --
18 I'm not challenging the 30 to Donna. It
19 wouldn't be fair for you to get 50 and 50,
20 because you already owned 40. So we've got
21 30 to you, 30 to Donna, which represented the
22 sum total of your mother and father's
23 ownership stock in Dorsey Motor?

1 MR. CLEVELAND: I think you're taking
2 it a step beyond what he did.

3 MR. ROBERTS: All right. Well, let's
4 say what they did, then.

5 Q. The sum total --

6 MR. CLEVELAND: Well, I think he was
7 the one that said that he came up
8 with the proposal.

9 MR. ROBERTS: Okay.

10 MR. CLEVELAND: I mean, you're the one
11 that's adding the 40 back to it.

12 MR. ROBERTS: Okay. Well, I guess
13 you're right. Let me -- I don't
14 want to belabor this, because I
15 think --

16 MR. CLEVELAND: Well, we're getting
17 real close to it. We've been on
18 this for some time now.

19 MR. ROBERTS: Well, we may have to stay
20 on it for a while.

21 MR. CLEVELAND: Well, we need to move
22 on. I mean, you know, once a
23 question has been asked and

1 MR. ROBERTS: Okay. Well, let's --

2 MR. CLEVELAND: He said half of 60 is

3 30. Then you started the

4 mathematical gyrations that --

5 that got us to the point where we

6 are.

7 Q. Did there -- this is a new question. Did
8 there come a time when the property was
9 transferred from DMS, Dorsey Motor Sales, to
10 I-65, that you believed that you already
11 owned 40 percent of the nine point something
12 acres? Yes or no?

13 A. No. I -- I sat down and proposed to my
14 parents how the property would move to I-65.
15 And then I also honored my father's wishes
16 and included Donna in I-65.

17 Q. Okay. Tell me about their wishes. They just
18 wanted to see that Donna got 30 percent,
19 correct? That was their wishes?

20 A. I'm not sure what their wishes were, because
21 Donna had nothing to do with the property.
22 I -- you know, it was just something my dad
23 asked, and -- and I honored that wish. And I

1 told my father that I would honor that wish
2 in lieu of any ownership of Dorsey Motor
3 Sales, Inc.

4 Q. All right. Let's move along, then. Let's
5 assume that Dorsey -- according to your
6 testimony, DMS paid 100,000 for the
7 property. That's what you've previously
8 testified to; is that correct?

9 A. Correct.

10 Q. And I think there came a time when, in 1990,
11 the transfer from DMS to I-65 was apparently
12 sold for somewhere around \$230,000. 228. Is
13 that correct?

14 A. No. 250.

15 Q. 250. How was the 250 figure arrived at?

16 A. The 250 figure was arrived at from an
17 approximate evaluation that arose in another
18 matter.

19 Q. Okay. And what was the other matter?

20 A. The litigation that we -- we had somebody
21 value the property at 250,000.

22 Q. All right. Which litigation are you talking
23 about?

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1 Properties, Inc.

2 Q. And how do you spell it? Was it the
3 Braden -- spell the name of the litigation
4 for me that was --

5 A. Alice Braden.

6 Q. A-L-I-C-E, B-R-A-D-E-N? Is that how --

7 MR. CLEVELAND: If you know.

8 A. I don't know how she spelled it.

9 Q. But that was a suit in the Autauga County
10 Circuit Court, correct?

11 A. Correct.

12 Q. Okay. Just so I'll know, did -- was the
13 Braden case the one case at that point,
14 though, that caused the transfer of the
15 property? Maybe I misunderstood.

16 A. No.

17 Q. Okay. So that was just one of many other
18 cases going on in the state?

19 A. Correct.

20 Q. But that case was against Dorsey Motors.

21 A. Correct.

22 Q. Just generally, five words or less, what were
23 the allegations of the Alice Braden case

1 against DMS?

2 A. The allegation was that we sold a used car
3 for a new car.

4 Q. Okay. And I apologize. I thought it was a
5 speedometer had something to do with it. Was
6 there any allegation during that case that
7 the speedometer had in fact been reversed?

8 A. Correct -- no.

9 Q. No. All right.

10 MR. ROBERTS: Now, let me see if I can
11 find the defensive maneuver
12 language. Okay. Plaintiff's #6.
13 I'm going to give you time -- we
14 can go off the record for a few
15 minutes while he studies that
16 document. It's very extensive.

17 (Brief pause)

18 Q. You've got a copy of this, I assume?

19 A. Somewhere probably.

20 Q. Okay. I wanted to give you a chance to study
21 it before I asked you questions about it.
22 And the primary point, before we went off the
23 record to allow you time to read it, was

1 the -- this appears to be a document which
2 was produced by Mr. Alan Taunton in response
3 to questions by -- we call him Jack, but John
4 Davis, your sister's husband, your
5 brother-in-law. Is that your understanding
6 of it at this point?

7 A. It's a letter from Alan Taunton to John H.
8 Davis.

9 Q. Okay. And it appears to be in response to
10 questions that Mr. Davis had asked. Okay.
11 Now, was Mr. Taunton your accountant at the
12 time of this letter, around February of 2000?

13 A. Yes.

14 Q. And he also represented the corporation DMS,
15 Dorsey Motor Sales?

16 A. Yes.

17 Q. Okay. And does he represent you personally?
18 Does he do your personal tax returns also?

19 A. Yes.

20 Q. And has he continuously been representing you
21 from let's just say the '90s through the date
22 of this deposition, March of '07?

23 MR. CLEVELAND: Can you get closer on

1 the '90s?

2 MR. ROBERTS: I don't have -- I
3 guess -- well, that's a good
4 question.

5 Q. Did he represent you at the time of the
6 transfer of the property from DMS to I-65?

7 A. I'm not sure if it was him or one of the
8 other partners in the firm.

9 Q. Okay. But the firm actually, Mr. Diamond or
10 someone, has represented you consistently?

11 A. Yes.

12 Q. All right. Now, I direct your attention in
13 this document to a question called the
14 bullet, meaning a specific pointed question,
15 where Mr. Davis asks for a copy of the note
16 and -- which was dated October -- excuse me.
17 He said, we have a copy of the note; and it
18 was dated October 1, 1990, signed by yourself
19 as president. And the payee of the note, he
20 responds, which is correct, does not have to
21 sign the note; in other words, the person who
22 is getting the note. Only the obligor signs
23 the note.

1 Okay. Now, he -- I draw your attention
2 specifically to Mr. Taunton's statement in
3 the first paragraph under bullet three, This
4 transaction was a defensive maneuver -- one
5 word, M-A-N-O-V-E-R -- designed to protect
6 the property from possible seizure in the
7 event a judgment was ever rendered against
8 DMS. Do you see that?

9 A. Yes, sir.

10 Q. Do you disagree with Mr. Taunton that the
11 transfer was in the nature of a defensive
12 maneuver, or maneuver?

13 A. I -- I can't speak for what Mr. Taunton is
14 thinking.

15 Q. Okay. So -- but I'm asking you for your
16 opinion. It's one of the allegations in this
17 complaint that the transfer was in fact not
18 an arms-length transfer, that it was a --
19 call it a defensive maneuver, call it a
20 gift. You disagree about both of
21 those categorizations?

22 A. I disagree with them.

23 Q. Okay. And would Mr. Taunton -- do you have

1 any idea where -- where or why he would have
2 responded in writing that it was just a
3 defensive maneuver, maneuver?

4 A. No, sir.

5 Q. We'd have to ask him, I assume, right?

6 A. Yes, sir.

7 Q. All right. Now, when he says -- and I'm
8 still on bullet three of Plaintiff's #6:
9 There was no distribution of proceeds by DMS
10 because no cash was collected from I-65. DMS
11 did report a taxable gain from the sale even
12 though no cash was collected.

13 Is that a correct statement by
14 Mr. Taunton, as to the best of your
15 knowledge?

16 A. You would have to ask Mr. Taunton.

17 Q. Well, I'm actually asking you, though. Do
18 you know if -- what was your title at DMS in
19 1990 -- or in 2000?

20 A. President.

21 Q. Okay. And what was your title in 1990?

22 A. President.

23 Q. Okay. So here today, you can't say that you

1 A. Taxes would be Alan Taunton. Bush hogging --

2 Q. I'm just using that as an example. There
3 came a time, which we'll put it in evidence
4 later, when someone prepared a
5 recapitulation, I'll call it, of expenses
6 over the past years going back from I think
7 2000 back to the inception of I-65. I've
8 seen the document, and I'll fish it out in a
9 minute. You might have prepared it in
10 response to your sister's request?

11 A. Either myself or Jo Anne Perry.

12 Q. All right. Now, tell me, in this letter --
13 while we're here, an LLC was apparently
14 formed. Can you help me with why the LLC --
15 and I believe it was I-65 Properties, LLC; is
16 that right?

17 A. Yes, that's what this says.

18 Q. Do you remember when it was formed?

19 A. No.

20 Q. Do you know the purpose for which it was
21 formed?

22 A. I think there was some discussion and
23 consideration given to tax benefits, but it

1 was later decided that that was not
2 beneficial.

3 Q. Okay. About when was the LLC formed, just
4 roughly? Between '90 and 2000, I assume.

5 A. I would assume.

6 Q. Okay. Did there come a time when Mr. Taunton
7 advised you, as president of I-65 and a
8 partial owner of DMS, that if all of this
9 interest was ever collected, it would all be
10 ordinary income to you -- or to DMS, excuse
11 me -- to your company?

12 A. I don't recall that.

13 Q. Do you own DMS still, Dorsey Motor Sales?

14 A. Yes.

15 Q. But it is not the -- what we call Victory?
16 It's just a separate corporation, correct?

17 A. Yes.

18 Q. What does it do now, if anything?

19 A. It has an automobile franchise.

20 Q. Okay. What kind?

21 A. Suzuki.

22 Q. Okay. And where is it located? Where does
23 it do business?

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1 A. At 621 East Main Street.

2 Q. I'm not familiar. Is that toward downtown?

3 A. Yes.

4 Q. But it's not the same premises as Victory?

5 A. Yes.

6 Q. So it's run -- although in the same place,
7 the same location, it's a completely separate
8 corporation?

9 A. The Suzuki franchise is incorporated in the
10 state of Alabama at 621 East Main Street,
11 which is the used car lot down there at
12 Victory.

13 Q. I see. But it still operates, correct?

14 A. Yes.

15 Q. Okay. So DMS owns the Suzuki franchise. And
16 what other assets does DMS have?

17 A. It owns the facility.

18 Q. The properties which you've referred to?

19 A. Correct.

20 Q. Okay. And is it your position that DMS still
21 is the holder of a note from -- I think we've
22 already introduced it. Have we introduced
23 the note? Yes. What we'll call Plaintiff's

1 Exhibit #5, that note?

2 A. Correct.

3 Q. Okay. Does DMS operate on a cash basis or an
4 accrual basis? By that, I mean an annual,
5 like cash is January 1 to December 31st.

6 A. I don't know the --

7 Q. You don't know?

8 A. -- the closing date on -- on the taxes.

9 Q. Has Mr. Taunton -- to the best of your
10 knowledge, he does do the return for DMS,
11 Dorsey Motor Sales?

12 A. Yes.

13 Q. Okay. Has he been accruing this interest
14 over all these years that you're claiming --
15 I think you filed a counterclaim, or your
16 attorney did, claiming that I-65, the
17 corporation, owes a million seven, something
18 like that?

19 A. I don't know how Mr. Taunton treated it.

20 Q. Okay. Are you aware that if it is ever
21 collected, that it would all be ordinary
22 income? And you're the sole stockholder of
23 DMS; is that right?

1 A. Correct.

2 Q. That you would have DMS and consequently --
3 is it a sub S corporation, or do you know?

4 A. Dorsey Motor Sales, Inc.?

5 Q. Yes, sir.

6 A. Yes, it's a sub S.

7 Q. I'm just curious because this will help me.
8 If that note was ever collected, you would
9 have ordinary income passed through to you of
10 about a million seven of interest income?

11 A. I can't speak to that. I'm not a tax -- a
12 tax person.

13 Q. But are you aware that when we earn
14 interest -- if we have money in the bank and
15 it earns interest, sometimes we call it the
16 tree is the principal, the fruit is the
17 interest -- that interest is taxable in the
18 United States by the Internal Revenue
19 Service?

20 MR. CLEVELAND: Object to the form.

21 Q. You can answer.

22 A. I'm sure interest is taxable in some form
23 unless it's tax free.

1 Q. Right. And as far as we know, absent you
2 being a government agency, if this note were
3 ever collected, you, as 70 percent
4 stockholder in I-65 and your sister as 30
5 percent, DMS would owe ordinary income on
6 close to a million seven?

7 A. I'm -- I'm not a tax person.

8 Q. Okay. We'd have to ask Mr. Taunton about
9 that, is that right, the effect if it were
10 collected?

11 A. Yes.

12 Q. Because you have filed -- you are aware you
13 filed a counterclaim claiming that you -- by
14 you, DMS -- is owed in excess of a million
15 five in interest. Are you aware of that?

16 A. Not a million five.

17 Q. All right.

18 A. No, sir.

19 Q. Let me look at the counterclaim. How much do
20 you believe it is? It's just a little
21 unusual to let that much interest accrue, if
22 it is in fact interest. Let's see if we can
23 find it.

1 A. Maybe. Maybe so; maybe not. I don't know.

2 Q. Okay. Is it prudent for the president of a
3 corporation to keep up with the value of its
4 assets?

5 A. Sure.

6 Q. But it's your testimony you haven't?

7 A. I don't know the value of the asset today,
8 no, sir.

9 Q. Do you have a rough opinion?

10 A. I would hope it's worth what the debt is.

11 Q. If I told you that it is Ms. Davis's informed
12 opinion that the value is a minimum of \$8 a
13 square foot, would you have any reason, since
14 you don't know the value, to argue with that?

15 A. I -- I don't have an argument one way or the
16 other with it.

17 Q. Don't you have to know in case an offer is
18 made? Since you're our -- you're the pilot
19 of the airplane of I-65, don't you need to
20 know the value so that you could consider if
21 we get an offer -- by we, I-65 -- gets an
22 offer to purchase the property?

23 A. No, not really. Why?

1 Q. Well, I'm curious. I think you're answering
2 my question. I-65 doesn't have any other
3 business. It simply holds title to a piece
4 of naked real estate, unimproved, on I-65 and
5 what I call 82 or the Wetumpka Road; is that
6 correct?

7 A. There's a road through it.

8 Q. All right. Did you put the road in?

9 A. Yes, sir.

10 Q. How long ago?

11 A. 1991.

12 Q. And who installed the road? Who was the
13 contractor?

14 A. Bobby Carter.

15 Q. All right. And what was the approximate cost
16 of the road?

17 A. I don't recall.

18 Q. All right. Is it your intention as
19 president -- well, let me go back. Let me
20 strike that.

21 Absent the road through it, isn't it a
22 fact that I-65 Properties, Inc.'s sole
23 business is to hold title to that piece of

1 value for 17 years is, in your opinion, a
2 good job?

3 A. Yes.

4 Q. Would you consider it prudent at this point
5 to get an appraisal of the property?

6 A. No.

7 Q. And why would that be?

8 A. Extra expense.

9 Q. Three or \$4,000?

10 A. At least.

11 Q. If you get an offer next week to purchase the
12 property, would you consider it prudent to
13 get an appraisal at that time to determine
14 whether or not it's a good offer or not?

15 A. No, sir.

16 Q. Because you would just turn it down anyway,
17 right?

18 A. That's not my plan for the property.

19 Q. Okay. That's going to help me. When you say
20 your plans, you mean as president of I-65,
21 correct?

22 A. Correct.

23 Q. Would you mind sharing your plans with my

1 client, the 30 percent minority stockholder?

2 A. Well, I'm waiting to see if someone wants to
3 long-term lease the property.

4 Q. Ground lease?

5 A. Excuse me?

6 Q. A ground lease?

7 A. Ground lease.

8 Q. Why would you prefer -- well, how old are
9 you, Mr. Dorsey?

10 A. 61.

11 Q. Why would you prefer a ground lease to a
12 sale?

13 A. Well, once you sell, it's sold.

14 Q. You don't own it anymore, do you?

15 A. Correct.

16 Q. Do you know the difference -- and I'll tell
17 you the difference. If you ground lease,
18 it's all ordinary income. You're aware of
19 that?

20 A. No.

21 Q. You're not? Are you aware that if you sold
22 the property, it is capital gain at a very,
23 very low taxable rate?

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1 you do or don't do directly bears on the
2 value of your sister's interest, 30 percent.
3 Is that right or wrong?

4 MR. CLEVELAND: Object to the form.

5 A. I would say that's true.

6 Q. Okay. Is it your opinion here today that
7 from the period 1990 to as we sit here today,
8 that you have properly discharged your duties
9 as president such as to prevent loss to my
10 client's 30 percent interest in I-65?

11 A. Yes.

12 Q. Can you think of any area in which you have
13 failed to protect her interest?

14 A. No.

15 Q. If you were going to buy a piece of property
16 individually or otherwise, wouldn't it be
17 prudent to appraise the property or have it
18 appraised before you purchased it?

19 A. Not necessarily.

20 Q. Is that because you have a specific -- and
21 I'm not arguing that you don't -- a knowledge
22 of value of real estate and you could apply
23 your knowledge of real estate and, therefore,

1 not need an appraisal to know if it's a fair
2 value?

3 A. I would hope so.

4 Q. All right. But you don't have an opinion as
5 to the value of the property, the nine point
6 acres, today as we sit here?

7 A. No, sir.

8 Q. Kind of like the bigger than a bread basket,
9 do you think it's more than \$7 a square foot?

10 A. No, sir.

11 Q. Less than seven?

12 A. I don't know.

13 Q. Is the property served by sewer?

14 A. No, sir.

15 Q. By city water?

16 A. No, sir.

17 Q. Where is the closest sewer?

18 A. The sewer is in Millbrook.

19 Q. Okay. When I see the motels across -- and
20 there are -- there's a Country Inn across.
21 Are they on sewer or some type of ergonomic
22 system?

23 A. I don't know.

1 A. You mark it.

2 Q. Okay.

3 A. You're getting paid, not me.

4 Q. Yeah, there you go. That's in question.

5 Service road. My client may have a big debt
6 she may not be able to pay.

7 All right. I've marked service road.

8 Now, the yellow road, what do we call it?

9 Private road? Is that okay? I mean, it is
10 private? It's not a deeded easement?

11 A. No.

12 Q. Okay. And that's the one that was put in
13 some years ago, correct?

14 A. Correct.

15 Q. I'm going to mark that private, meaning the
16 yellow road. What was the purpose of putting
17 in the private road, if you can help me with
18 that?

19 A. We had an interested party in building a
20 business on the property.

21 Q. Okay. What kind of business?

22 A. A Nissan dealership.

23 Q. Okay. And would you have been the primary

1 stockholder of the Nissan dealership?

2 A. No. The guy that owned it was -- I don't
3 recall his name. I don't remember.

4 Q. Would you have had any ownership of the
5 Nissan dealership?

6 A. No.

7 Q. Isn't it a little unusual to construct a road
8 before a contract is finalized?

9 A. It's what my father said do.

10 Q. Okay. That's a good reason. Is the road
11 30-feet wide or more, roughly?

12 A. I don't know if it's 30-feet wide. I'd --
13 I'd have to go measure it. I don't know the
14 width of it.

15 Q. Are there locks, as you call them, security
16 posts, on the Cobbs Ford -- is that what
17 locally people call it, the Cobbs Ford Road,
18 or what is that referred to now?

19 A. Cobbs Ford Road.

20 Q. Cobbs Ford Road. It's an extension of 82,
21 though, correct?

22 A. No.

23 Q. It isn't? Okay. I don't know. Are there

1 gates on the north side of the property --
2 security gates on the north side up towards
3 Cobbs Road and on the -- along what we call
4 the service road?

5 A. No. Just on the service road.

6 Q. Okay. Why? Is it impassable up on the -- it
7 seems like the flow of traffic would be more
8 up around Cobbs Ford Road.

9 A. There's a steep bank there.

10 Q. A steep bank. All right. Now, apparently on
11 Plaintiff's Exhibit #7 -- everything I'm
12 questioning you on will be Plaintiff's
13 Exhibit #7. It's my understanding that the
14 tract in which this water was running would
15 have been onto a tract that is labeled on the
16 tax tract 10.01; is that correct?

17 A. Does the water run on that tract?

18 Q. Well, it appears that that's exactly where
19 you drew the green line. It would go right
20 onto that property; is that correct?

21 A. No. It drops into a branch.

22 Q. Oh, okay. And the branch, is this the Hudson
23 Branch that I'm look at right here? Is that

1 the branch that I'm --

2 A. I didn't know the name of it.

3 Q. All right. So that branch is a conduit for
4 the water. And it does have a sharp V, if
5 you'll notice; but the water flows freely all
6 along the Hudson Branch. Is that right?

7 A. I've never walked it. I assume it does.

8 Q. All right. So did you say earlier, though,
9 that there was a problem with the water flow
10 over the 9.6 acres of I-65?

11 A. Yes. It's causing erosion to the property.

12 Q. I see. And how did you plan to stop that?
13 Water bars? Riprap?

14 A. No. We had a study done to take the water --
15 pick the water up here and run it down a
16 common line and drop it into the head of the
17 branch here.

18 Q. Okay. Now, let the record show that the
19 witness is testifying that along the west
20 property line, a possibility of diverting the
21 water down the west line along the service
22 road and hitting the Hudson Branch at the
23 southwest corner of the 9.6 acres.

1 break before we do? Because this
2 is going to take a while. Do we
3 need a break? No? Let's go,
4 then.

5 Q. Let's start with the first one you purchased,
6 if you know, either by yourself, the
7 corporation, and most importantly, that Donna
8 Davis, the minority stockholder, is not a
9 partner in. And you can color them with that
10 yellow, and we'll mark them as we go.

11 MR. ROBERTS: All right. The defendant
12 has marked four parcels on this
13 map from -- one, two, three,
14 four -- ending at the south end as
15 sister's and on the east side --
16 the west side, the service road,
17 the right side, Market Street as
18 its called, and the north side,
19 Cobbs Ford Road.

20 Q. Is that a fair depiction?

21 A. Correct.

22 Q. Okay. When did you purchase -- or who
23 purchased these and when, if you know?

1 A. CD&O Properties -- or CD&O purchased those.

2 And I want to say it was in 1991 or '92.

3 Q. All right. And who is CD&O?

4 A. Just a corporation that -- that I formed.

5 Q. Okay. A corporation you formed?

6 A. Uh-huh. Excuse me. An LLC, I mean.

7 Q. An LLC. And am I right, just from somewhere
8 in a public record, that's Connie, Dick &
9 Others?

10 A. Yes.

11 Q. Okay. Who are the others?

12 A. Others?

13 Q. Yeah. Are others people?

14 A. People.

15 Q. Who are the people?

16 A. People of America.

17 Q. Okay. I really enjoy this, but it's going to
18 delay it. We can start with a phone book.
19 If we have to, we'll do that. Is there some
20 reason why you don't want your minority
21 stockholder to know who the others were?

22 A. No. Just others.

23 Q. Okay. Well, now, we're in federal court.

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1 A. You're an other. I declare it.

2 Q. All right. I decline, but thank you. All
3 right. Where would I find the LLC so that I
4 can see who the others are?

5 A. I'd have to pull the paperwork on it.
6 There's no others. I mean, others are just
7 other people.

8 Q. All right. I did see a TD&O at some point.
9 While we're here, before we get there, what's
10 the TD&O?

11 A. That's Taylor, Dick & Others.

12 Q. Is that Ted Taylor?

13 A. No.

14 Q. Okay. Who is Taylor?

15 A. My son.

16 Q. Oh, good. I'm sorry. Taylor, Dick &
17 Others. All right. That will help me when
18 we get there later.

19 Okay. Now, it's your testimony here
20 today that the CD&O is basically, as far as
21 ownership goes, the right to sell or mortgage
22 or whatever reposes solely in Dick, yourself,
23 right?

1 A. CD&O?

2 Q. Yes.

3 A. Yes.

4 Q. Okay. And you're not a managing partner for
5 some other people who are, let's say, silent
6 partners?

7 A. No.

8 Q. All right. Do you know when the LLC was
9 formed, CD&O?

10 A. No.

11 Q. You don't? I think you said around '91 or
12 '92?

13 A. No. That's when the property was purchased.

14 Q. All right. And it was purchased, though, in
15 the name CD&O. So, obviously, CD&O was in
16 existence around '91 or '92, right?

17 MR. CLEVELAND: Object to the form.

18 Q. You can answer it.

19 MR. CLEVELAND: I mean, he's assuming
20 it was purchased in the name --

21 MR. ROBERTS: Oh, okay.

22 MR. CLEVELAND: I don't know if that's
23 accurate or not, Dick. It may be;

1 property on both sides of the road, a road
2 can either be vacated or sometimes
3 relocated? Were you aware of that?

4 A. No.

5 Q. All right. When you purchased -- or excuse
6 me. When CD&O purchased the four tracts
7 shown on #7 on the service road, did you
8 contact your sister, the minority
9 stockholder, and discuss the purchase with
10 her?

11 A. I -- I don't recall.

12 Q. Is it safe to say if you don't recall, that
13 your best judgment is you didn't?

14 MR. CLEVELAND: Object to the form.

15 A. No. I don't recall.

16 Q. If she testifies you didn't, would you
17 disagree with that?

18 A. I don't recall.

19 Q. My question is -- okay. You don't recall.
20 But if Donna, your sister and your only
21 sister, testifies that you didn't contact
22 her, since you don't recall, would you accept
23 her testimony as being correct?

1 MR. CLEVELAND: Object to the form.

2 Q. You can answer.

3 A. I don't remember.

4 Q. Would it have been prudent, since you are the
5 captain of the 9.6 -- I'll call it the
6 ship -- to have contacted the minority and
7 suggested that she might want to buy it with
8 you, become an other?

9 A. I don't think so.

10 Q. Has anyone ever told you that you had a duty
11 under Alabama law to not act against the
12 interest of your sister, the minority
13 stockholder?

14 MR. CLEVELAND: Object to the form.

15 Q. You can answer it.

16 A. I thought we were talking about purchasing
17 the property.

18 Q. When you point to it, we're talking about
19 those four tracts. And I'll restate the
20 question. Has anyone ever told you that it
21 would be improper as the CEO, the captain of
22 the ship, whatever you want to call your 70
23 percent in I-65, to purchase property,

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1 particularly contiguous to the 9.6 acres,
2 without giving the minority partner an
3 opportunity to join in that purchase?

4 A. No.

5 Q. No one has ever told you that?

6 A. No, sir.

7 Q. At the time, did it ever cross your mind to
8 do that?

9 A. I'd have to look at the time that I purchased
10 the property.

11 Q. Do you know that sometimes small tracts of
12 property, in real estate nomenclature, tails
13 wag dogs. Have you ever heard that?

14 A. No.

15 Q. Were you not aware that the purchase of those
16 four tracts that we're talking about by CD&O
17 could either increase their value by virtue
18 of ownership of the 9.6 or they could
19 decrease the value of the 9.6?

20 A. No.

21 Q. You're not aware of that? You just thought
22 it would be a good idea to buy them, right?

23 A. Just an opportunity came up and we bought

1 them.

2 Q. And when you say we, CD&O?

3 A. Right.

4 Q. Okay. And that's exactly what one of the
5 allegations of the complaint is, that it was
6 a missed opportunity for my client, your
7 sister, but an opportunity for you.

8 A. No. I-65 had no income. How could they buy
9 that property?

10 Q. Well, let's assume for the moment that
11 there's -- I think this is an old Regions
12 Bank, isn't it?

13 A. Excuse me?

14 Q. Isn't this where we're sitting -- was a
15 Regions Bank or something?

16 A. I don't know.

17 Q. Without being flippant, that's what banks
18 do. They loan money to minority stockholders
19 to buy property.

20 A. In the name of the corporation?

21 Q. Well, it could be. Yes, that would be a good
22 point. I-65 could have purchased the
23 property instead of Dick.

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1 MR. CLEVELAND: Is that a question?

2 Q. Well, let me ask the question. Could --

3 MR. ROBERTS: You're helping me.

4 Q. Could --

5 MR. CLEVELAND: I'm trying to. I'm
6 trying to get through this.

7 MR. ROBERTS: Well, Cliff, it's a big
8 matter, a lot of money.

9 Q. Could I-65 have purchased the property --
10 assuming it had a loan, or my client, as a
11 school teacher, had socked away money --
12 could I-65 have purchased the property, the
13 four tracts?

14 A. I don't -- I don't think so, no, sir.

15 Q. And why?

16 A. They have no income. They have no worth.

17 Q. Okay. Don't people sometimes loan money to
18 corporations?

19 A. I don't know.

20 Q. Well, you should know because Dorsey Motor
21 Sales is contending in a counterclaim, if you
22 do the math, that it loaned, including
23 accrued interest, a million six to I-65.

1 A. I don't think they loan money to corporations
2 that have no worth and no income.

3 Q. All right. So you assumed that Donna could
4 not come up with sufficient moneys -- and I
5 mean, this is what I think you're saying --
6 to allow I-65 to have purchased this
7 property. Is that your assumption -- or was
8 your assumption?

9 A. The property became available for sale. And
10 myself and Connie looked at it and came up
11 with what we thought was a business plan that
12 she wanted to do, and we purchased the
13 property.

14 Q. Okay. And I think your testimony is you did
15 not, to your recollection, notify the
16 minority stockholder of I-65.

17 A. No. It's separated by a service road.

18 Q. And, therefore, you didn't deem it to be
19 necessary? That's fine.

20 COURT REPORTER: I'm sorry?

21 THE WITNESS: No.

22 MR. ROBERTS: Separated by a service
23 road and no, he didn't deem it

1 necessary to contact Donna.

2 Q. Let's go to the next one. Let's do -- we did
3 yellow on that one. Let's do green for
4 anything else you purchased.

5 Okay. I think the record will show in
6 #7 that -- and by the way, this is CD&O
7 purchased what we called tax tract 10.01,
8 which shows to be 2.52 acres; is that
9 correct? Is that what you marked?

10 A. Yes.

11 Q. And what was on we'll call it tax tract 10.01
12 at the time you purchased it, if anything?

13 A. A building.

14 Q. Is that building still on there today?

15 A. Yes.

16 Q. And that building -- it's a metal building,
17 correct?

18 A. Yes, metal and brick.

19 Q. And it has been added on to at least once,
20 correct?

21 A. Yes.

22 Q. Okay. Is CD&O the landlord of that property?

23 A. Yes.

1 Q. What is the rental per month on that
2 property?

3 A. Right now, about \$3200.

4 Q. Per month?

5 A. Yes, sir.

6 Q. All right. What else, if anything, have you,
7 CD&O, others, or anyone purchased on our
8 Plaintiff's Exhibit #7?

9 A. I'm sorry. Say that again.

10 Q. Any other properties, you, CD&O, or anyone in
11 your family, friends, have purchased. For
12 example, 03.04. Do you know who owns that,
13 this tract right here? It's 2.86 acres.

14 A. I don't know who owns that.

15 Q. Okay. Do you know who owns 17.01? That's
16 this tract right there.

17 A. No. It's an insulation company.

18 Q. Okay. So this Plaintiff's Exhibit #7 fairly
19 depicts at this point two tracts of property
20 that either you or CD&O has purchased, the
21 green and the yellow; is that correct?

22 A. Correct.

23 Q. Have you, at any time since 1990, owned any

1 of these other tracts and now don't own them,
2 either you, CD&O or anyone else?

3 A. No, sir. I can't -- wait a minute. Let me
4 rephrase that. I can't go back to 1990,
5 because I don't know who owned them then.

6 Q. No. I'm just saying have you owned them and
7 sold them to someone else since 1990?

8 A. No.

9 Q. That was the answer. All right. Have you
10 had any offers on any of the four tracts in
11 L-7, boundaried by the yellow, to sell them?

12 A. No.

13 Q. Okay. And I assume you wouldn't have an idea
14 of the fair market value of those either,
15 correct?

16 A. No, sir.

17 Q. Okay. Just real quick, what is on --
18 starting with the one that says "Sisters" on
19 there, what's on there now, on that lower of
20 the four tracts, just south of the four
21 tracts? Just run through for me real quick.

22 A. The sister's building.

23 Q. And what is Sisters? What does it do?

1 A. It's a mattress sales company.

2 Q. Okay. That's good. That's what I saw, a
3 mattress company. What is the next one,
4 coming north, the next track above Sisters?

5 A. Vacant land.

6 Q. Vacant land. And what about the next one
7 above that?

8 A. Vacant land.

9 Q. And vacant on Cobbs Ford Road?

10 A. Correct.

11 Q. All right. Now, where -- am I wrong that you
12 may have had the Suzuki dealership out there
13 at one point on one of these parcels of
14 property?

15 A. No.

16 Q. I'm wrong?

17 A. No, you're not wrong.

18 Q. Okay. Which tract would have you have had it
19 on?

20 A. The 10.01.

21 Q. Okay. And what about antique cars or
22 anything like that? Have you had a place
23 there? I just vaguely remember seeing some

1 antique cars coming by there, vintage cars or
2 something like that.

3 A. Well, they have some cars over there across
4 the street at 10.008, but they're not --
5 that's not mine.

6 Q. Okay. Do you know who owns that?

7 A. Yes.

8 Q. Who owns that?

9 A. Vintage Autos.

10 Q. Okay. And I'm looking for where you're
11 saying. I just don't see 1008. Which one is
12 that, now?

13 A. Right there.

14 Q. Oh, I see it now. Do you know who owns
15 Vintage Autos?

16 A. Wasn't Smith.

17 Q. And he was a partner at some point, or am I
18 wrong, of yours in some other endeavor?

19 A. No.

20 Q. He wasn't? He never worked for the
21 dealership?

22 A. Yes.

23 Q. Okay. Does he still work for the dealership?

1 A. No.

2 Q. And he is the only titled owner? You've
3 never owned any interest in that yourself?

4 A. No, sir.

5 Q. Okay. And the RV center, 10.03, do you know
6 who owns that?

7 A. It's Saxon Properties.

8 Q. All right. No -- you've never had any tie
9 with them at all or anything?

10 A. Yes.

11 Q. You have? What tie have you had with them?

12 A. I'm a part owner of Saxon.

13 Q. All right. How much owner are you?

14 A. 50 percent.

15 Q. Any buy and sell agreements on it?

16 A. Not that I -- no. I don't know.

17 Q. Okay. It's a corporation?

18 A. No. It's an LLC.

19 Q. And the other man is Wayne Smith? No.

20 Excuse me. Wayne is over on 1008. Who are
21 the other partners of Saxon Properties?

22 A. Now, there's another property in between
23 Wayne and Saxon. That's the 10.03. And I --

1 I don't know. I think Jim Sullivan still
2 owns that.

3 Q. All right. Now, there's not a mark. It
4 would indicate that that -- that there's no
5 break between the two properties, but
6 there -- you're saying there is a difference.

7 A. There's another property there.

8 Q. Okay.

9 A. I think it's a radio business or something.

10 Q. Okay. And you think it's not -- it's not
11 part of Saxon property?

12 A. No.

13 Q. Okay. How did you come to become an owner of
14 Saxon Properties and the -- and that
15 particular tract of property? Was it again
16 found out it was for sale?

17 A. Yeah. Found out it was for sale and came
18 available.

19 Q. About when was that bought?

20 A. I --

21 Q. If you know.

22 A. I'm guessing. 2000, 2001.

23 Q. Okay. Now, although it's not contiguous, the

1 same question, did you ever contact Donna,
2 the minority stockholder, and tell her that
3 it was available and would she like to buy in
4 either individually or as I-65?

5 A. No.

6 Q. Okay. The same reason, corporation had too
7 much debt; meaning I-65, and you just assumed
8 that she wouldn't want to purchase; is that
9 right?

10 A. No. I just didn't think about it at all.

11 Q. Who found out about it being for sale? Was
12 it Mr. Saxon -- excuse me. No. No. You own
13 50 percent. Who owns the other percentage?

14 A. Mr. Cleveland.

15 Q. Okay. Are we talking about the same attorney
16 here today?

17 A. Yes, sir.

18 Q. Did you or Mr. Cleveland, which one of you
19 first learned about the property coming for
20 sale?

21 A. The property has been up for sale and off of
22 sale and up for sale several times. I -- I
23 think we both knew about it. It's a pretty

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1 with that.

2 MR. CLEVELAND: If you know.

3 Q. If you know. That's all a deposition is.

4 I'm not asking you to make things up. If you

5 know, since you've been around dealerships.

6 I thought someone mentioned or said at some

7 time you had a dealership there.

8 MR. CLEVELAND: See where he's talking

9 about, Dick?

10 Q. Number 10 right here.

11 A. I was trying to read that writing. CU 7?

12 Q. I didn't write it. Did you?

13 A. I didn't write it. I don't know.

14 Q. But, I mean, the question is -- if you don't

15 know, you don't know. You've never leased

16 it, owned it, been a silent partner in it or

17 anything, right?

18 A. No, sir.

19 Q. And who does own it?

20 A. Don't know.

21 Q. All right. So is it safe to say other than

22 parcel 03.04 -- and you see that's the

23 question mark piece. I'll mark it on here,

1 question mark. I just want to see --

2 A. Oh, that one?

3 Q. Yes, sir. You said you don't know who owns
4 that?

5 A. I do not.

6 Q. So, other than that parcel, is it safe to say
7 that properties owned by you or under your
8 control completely surround the 9.606 acres?

9 MR. CLEVELAND: Other than what
10 parcel?

11 MR. ROBERTS: Other than 03.04.

12 A. Well, 17.01.

13 Q. Oh, excuse me. Who owns that?

14 A. I don't know.

15 Q. So your answer is that other than those two
16 parcels, you or entities owned or controlled
17 by you virtually surround the property; is
18 that right?

19 A. On the east side and the south side.

20 Q. All right. Is it your testimony here today
21 that you don't believe that your ownership or
22 other entities -- and I'm not even including
23 Mr. Cleveland and your other tract -- that

1 they would not impact the fair market value,
2 either up or down, of I-65 investment
3 properties?

4 A. I don't think they would.

5 Q. If something were done negatively, nasty
6 warehouses on I-65, Inc., are you telling me
7 you don't think that would affect your
8 parcels in yellow and green below it?

9 A. I can't speak for what somebody would do on
10 the property.

11 Q. I'm just asking you assuming -- I'm trying to
12 get back to -- I think your answer was it's
13 your opinion that what happens on the
14 contiguous properties owned by you and/or
15 others would not have an effect on I-65's
16 property, and, conversely, I-65 would not
17 have an effect, potentially, on your
18 properties.

19 A. If I --

20 MR. CLEVELAND: I mean, is your
21 question based upon no zoning,
22 no restrictions; you can put
23 anything you wanted to there?

1 MR. ROBERTS: Yes.

2 MR. CLEVELAND: A garbage dump?

3 MR. ROBERTS: Anything.

4 A. No ADEM? No nothing?

5 Q. That's a good question. What is the property
6 zoned? Both tracts, yours and the subject
7 property.

8 A. I'd have to look at the zoning for Millbrook.
9 I don't really recall. I think it's B1. Is
10 there a B1?

11 Q. General business where I'm from, but it might
12 not be down here.

13 A. Yeah. I don't know.

14 Q. So as far as you know, all of those
15 properties are B1 or something along that
16 line?

17 A. Yes, sir.

18 Q. Okay. But, again -- and I -- in deference to
19 Mr. Cleveland's comment, my question is do
20 you believe that -- and we're assuming that
21 it operates within the acceptable zoning --
22 that what happens to one -- and by one, I
23 mean does not necessarily affect the other.

1 A. That's -- that's really hypothetical. I
2 can't -- I can't --

3 Q. Let me ask you.

4 A. I can't answer something that hypothetical.

5 Q. Let's just say -- I don't know if what they
6 call smut, porno sales places -- are you
7 saying that if that was on either one of
8 those, it wouldn't have an adverse impact on
9 either one of them, potentially?

10 A. I'm sorry. I don't have an opinion on that.

11 Q. Okay. What about mini warehouses on one?
12 Would that affect the commercial nature of
13 the other? And it's either one. You can put
14 them on I-65 or you can put them on your
15 other properties.

16 A. As far as mini warehouses, anything can be
17 built can be removed. So I don't know. I
18 don't -- I don't see the connection.

19 Q. All right. Well, I got you. Where -- I
20 mean, I completely understand you. It is
21 your opinion, your professional opinion, that
22 what happens on one tract, I-65, doesn't
23 impact your other tracts, meaning the green,

1 and advice versa; that to your knowledge
2 right now, neither tract could impact the
3 value of the other depending on what's built
4 there?

5 A. I don't think the three tracts are really
6 connected. One is separated by the road; the
7 other one is separated by a natural branch.

8 Q. All right. Do you believe -- for example,
9 you see Market Street on there, 50 foot
10 right-of-way?

11 A. Yes, sir.

12 Q. All right. Do you believe that Market Street
13 could become the access and the service road
14 could be eliminated because persons exiting
15 Cobbs Ford Road could simply come down the 50
16 foot right-of-way, which appears to be
17 significantly greater than the service road,
18 and then re-intersect the service road going
19 south, which would mean that all four
20 properties would become part -- could become
21 part of I-65? Had you not thought about
22 that?

23 A. No, sir.

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1 Q. Sound like a good idea if somebody needed --
2 say a dealership says, we've got to have at
3 least 14 acres; you know, churches need 30.
4 It wouldn't be a great help to I-65, if
5 somebody needs 14 acres, if these four tracts
6 were joined to the 9.6?

7 A. I never thought of doing away with the road.

8 Q. Okay. I'll ask you here today. Not that I'm
9 the real estate guru, but it's a possibility,
10 isn't it?

11 A. Anything is possible.

12 Q. Okay. And Market Street looks like a better
13 road, would you agree, than the service road?

14 A. I -- I can't say that.

15 Q. Okay. Do you know who put the service road
16 in? Was it there when you bought the I-65,
17 or when Dorsey bought the I-65?

18 A. Yes, sir.

19 Q. Okay. Now, this -- we go back to my original
20 assumption. Had Donna or I-65 -- we'll call
21 it I-65 -- purchased the CD&O property, it
22 could have been blended with the 9.606?

23 MR. CLEVELAND: Object to the form.

1 Q. You can answer.

2 A. No, I don't think so.

3 Q. You don't think so. Why not?

4 A. I-65 couldn't pay for it.

5 Q. Okay. And that's based on the fact that I-65
6 didn't have any money?

7 A. That's right.

8 Q. All right. I'll move right along on this.
9 Is it your opinion that I-65 partners,
10 meaning you and your sister or whoever,
11 couldn't have borrowed the money and
12 purchased it?

13 A. I don't think so, no, sir.

14 Q. All right. How do you -- does that mean that
15 Dick Dorsey couldn't have? Were you so
16 extended you couldn't have borrowed money?

17 A. I don't think somebody is going to loan me
18 money when I don't have the income to repay
19 it.

20 Q. But, now, we're not looking at just income
21 from I-65. We're looking at income from any
22 other source. Banks don't care about
23 unimproved property; they'll look at your

1 personal financial statement. So I'll ask
2 you that question. Somebody had the money to
3 buy it. How did you get your money to buy
4 it?

5 A. We presented a business plan to the bank.

6 Q. Okay. And which bank?

7 A. Regions.

8 Q. Which office?

9 A. Main.

10 Q. Downtown, Birmingham, or here?

11 A. Montgomery.

12 Q. All right. And what loan officer did you
13 present it to?

14 A. Spencer Knight.

15 Q. Is he still with Regions?

16 A. Yes, sir.

17 Q. Did he require the LLC to personally endorse
18 the loan, meaning you and Connie?

19 A. Yes, sir.

20 Q. So he wasn't just looking to the raw land for
21 repayment, was he?

22 A. No, sir. He was looking to us to repay.

23 Q. Had personal guarantees, correct?

1 A. Yes, sir.

2 Q. Okay. So what's different about I-65 having
3 purchased it and we get Spencer Knight to
4 agree that you and Donna personally guarantee
5 the loan?

6 A. I-65 had negative equity at the time.

7 Q. All right. But let's assume it had negative
8 equity. They ultimately are looking at the
9 personal guarantee, aren't they?

10 A. I don't know.

11 Q. Well, in other words, if my net worth was
12 \$7 million and I've got a piece of property
13 with a negative worth, isn't it a fact that
14 Regions wouldn't be worried about the
15 property; they'd be looking at my assets?

16 A. Boy, that sounds great to me.

17 Q. You weren't aware of that, then?

18 A. No, sir.

19 Q. I submit to you that I leased to Regions Bank
20 for years in Birmingham and that's how they
21 work. They'll loan you money on triple
22 negative if you're -- if you've got \$500,000
23 in cash sitting in their bank. But that's a

1 problem. I mean, you're the CEO. You're the
2 leader. You didn't know that. And that's
3 one of the reasons that you didn't allow
4 Donna to participate in that. That is your
5 testimony, isn't it?

6 A. No. I didn't allow I-65 to participate.

7 Q. Excuse me. Well, I-65. Is that correct?

8 A. That's right.

9 Q. And who was the 30 percent owner of I-65?

10 A. Donna.

11 Q. Donna. So didn't you indirectly, by virtue
12 of her 30 percent ownership, keep her from
13 being able to participate in that sale, yes
14 or no?

15 MR. CLEVELAND: Object to the form.

16 MR. ROBERTS: You can answer.

17 Q. Yes or no?

18 A. I didn't have any consideration of I-65
19 Properties, Inc., buying this property,
20 because they had a negative equity, had zero
21 income, and could not pay for the property.

22 Q. Okay. Now, I-65 -- I may be wrong; but if I
23 check the bank records, hasn't I-65 --

1 haven't you used that property, which doesn't
2 have a recorded mortgage, as collateral for
3 another loan? Yes or no?

4 A. I --

5 Q. I'll restate it. I'll go slow. There is no
6 outstanding recorded mortgage by I-65 on this
7 piece of property, meaning the I-65 property;
8 is that right?

9 A. That's correct.

10 Q. Okay. And with it being unrecorded, is it
11 your testimony here today that you have never
12 pledged, assigned, or otherwise used this,
13 quote, negative value property as collateral
14 for any other loans?

15 A. Well, it's on my financial statement. So if
16 I personally guarantee something, then I'm
17 pledging my personal assets, which is stock
18 of I-65 to that debt, am I not?

19 Q. Yes, sir, you are.

20 MR. CLEVELAND: His question was have
21 you mortgaged it, though.

22 A. No.

23 Q. Or pledged it?

1 A. No.

2 Q. When was your last financial statement that
3 you filed?

4 A. I don't remember.

5 Q. Other than Spencer Knight and Regions, what
6 other banks, local, have you dealt with in
7 the last five years?

8 A. To borrow money?

9 Q. Yeah. Or anything. Put money in or take it
10 out.

11 A. First Community Bank.

12 Q. Okay. And who's the loan officer there?

13 A. Tracey Alexander.

14 Q. Are they local here in Prattville?

15 A. Yes.

16 Q. Okay. Name any others for me, if you will.

17 A. I have an account at -- what is it, River
18 Bank.

19 Q. No loans, just a bank account?

20 A. Just a bank account.

21 Q. Who does the Dorsey Motor Sales Suzuki
22 dealership have its bank account with?

23 A. With the First Community.

1 Q. Who does Victory have their main account
2 with?

3 A. First Community.

4 Q. All right. Do you happen to remember what
5 value you put your 70 percent interest in
6 I-65 on your last statement, what you valued
7 it at?

8 A. I don't remember.

9 Q. Normally, banks like to get them about every
10 two years. So am I correct you would have
11 filed one within the last couple of years?

12 A. I would say so.

13 Q. Now, since it is material to this case the
14 value you placed on it, I would like to ask
15 you if a request is made through your
16 attorney, Mr. Cleveland, if you would have
17 any problem with providing a copy of that
18 financial statement.

19 A. No.

20 Q. No, you wouldn't or, no, it's okay?

21 A. It's okay.

22 Q. All right. Now, concluding on this -- and
23 it's about time for a break -- did you ever

1 use any of the I-65 property, other than
2 indirectly, pledged as collateral for any
3 loans?

4 A. No, sir.

5 Q. And to date, there are no debts other than
6 the alleged mortgage or promissory note
7 outstanding against the I-65 property?

8 A. That's correct.

9 MR. ROBERTS: The time is five after
10 12. I'm going to need either a
11 short break, or we can break for
12 45 minutes or an hour.

13 MR. CLEVELAND: Let's go ahead and
14 break for lunch and let
15 everybody --

16 MR. ROBERTS: Back at one?

17 MR. CLEVELAND: Yeah. Sounds good.

18 (Lunch recess)

19 Q. Just one question. And certainly -- did you
20 have a chance to discuss the maps or anything
21 with your attorney when we were -- during the
22 break?

23 A. No. I mean, was I supposed to?

1 Q. No. No. I was just going to ask you did
2 you.

3 A. No.

4 Q. I always ask that question just so you know.
5 Okay. Now we're back to the map. And I
6 think you've told me everything you know
7 about the map as far as ownerships, as far as
8 ever owned, not owned, no offers of sale on
9 the -- I mean no offers to buy the 9.6. Any
10 offers to buy the 10.01? That's the --

11 A. Oh, the --

12 Q. The CD&O.

13 A. No.

14 Q. No? Any offers to buy the four lots owned by
15 CD&O?

16 A. No.

17 Q. No. Okay. Now, I notice -- and I'm skipping
18 ahead of myself, but we noticed that a
19 complainant in -- and this may be a legal
20 question, and you're perfectly okay to
21 answer. I don't know why they did that.
22 TD&O, which is your son Taylor, Dick &
23 Others, apparently has filed a counterclaim

1 against Donna individually. Can you help me
2 with why TD&O has anything to do with this?

3 A. TD&O has been one of the companies that I've
4 borrowed money for, for I-65.

5 Q. Oh, I got you.

6 A. To pay property taxes, maintenance, upkeep.

7 Q. Okay. Got you. And will that show --
8 here's -- it's all marked up, so I almost
9 hate to use it, but this was furnished at a
10 point. I think Ms. Perry did it. It was
11 furnished to my client. Forget all the
12 writing. She took notes. It's the only copy
13 she had. So will that show on here? It's
14 got loans Dorsey Motors, Dorsey Motors. I
15 haven't studied it. I didn't see TD&O on
16 here.

17 A. I haven't seen the document.

18 Q. Okay. Well, we'll go to that -- well, we may
19 as well go to it, because I'm trying to
20 ascertain how TD&O -- I didn't know they
21 were, because you told me it's Taylor. So
22 we'll go ahead and use this document.

23 MR. ROBERTS: Now, I don't have a clean

1 copy. And, Cliff, if it's all
2 right with you -- and y'all have
3 one -- I will introduce it with
4 the idea that we can substitute a
5 perfectly clean copy or we can
6 redact any and all writing.
7 Because in the meeting that Donna
8 had, she didn't have an extra copy
9 or a paper and she wrote on the
10 only copy.

11 MR. CLEVELAND: Okay.

12 MR. ROBERTS: If you have a clean copy,
13 it is my representation to the
14 Court that will be Plaintiff's
15 #8. I'll give it to you. It's
16 kind of out of order, but a good
17 time to cover it.

18 Q. I'm going to let you study it for a minute,
19 because I haven't studied it.

20 (Brief pause)

21 Q. Okay. Have you had a chance to look at it?

22 A. Uh-huh.

23 Q. I now see that you are completely correct.

1 somewhere around December of 2005. Is that
2 anywhere close? Not holding you to it.

3 A. I don't know.

4 Q. Okay. Jo Anne Perry would be the one that
5 would know? She would know when she made it
6 up, wouldn't she?

7 A. If she made it up.

8 Q. Okay. I thought earlier you may be -- I'm
9 probably wrong. I thought you -- who
10 actually does this, keeps the books, so to
11 speak, on 65. I mean, this is a
12 compilation.

13 A. Jo Anne and Alan Taunton.

14 Q. Okay. So we'd ask both of them and somebody
15 would know. All right. And the reason I
16 said, if you'll look at the first page, under
17 amount, Department of Revenue and Bob Gray,
18 it looks like the total is 5,000. And the
19 actual figures over here was \$35 and 140.
20 And it must be carrying it forward in order
21 to get \$5,000. Do you see the first page I'm
22 talking about?

23 A. I -- I don't follow you.

1 Q. Well, 35 and 140 equals \$175. Those two
2 fees. And then on the right, it would appear
3 that Dorsey Motors loaned the \$35 and the
4 140; but on the far right column, it says
5 4,000 and 1,000. And I'm assuming that
6 begins the running total. I don't know what
7 the 4,000 and the 1,000 represents.

8 A. I don't either.

9 Q. Okay. Taunton and Jo Anne Perry. All
10 right. But let's talk about artist sketches,
11 Bob Gray. Do you have any idea? Was that
12 something to deal with the property itself
13 for a sales tool or something?

14 A. I don't know. I think my dad spoke to Bob
15 and -- and asked him to sketch some things on
16 the property. Don't know what it was in
17 regards to.

18 Q. Is Bob still around?

19 A. Yes.

20 Q. Is he an architect? Engineer?

21 A. No.

22 Q. What does he do?

23 A. Works for the Water Works.

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1 Q. All right. Let's go as fast as we can
2 through. Let's go '91, option on four lots.
3 So that would be the property that you have
4 already shown us right here, okay, meaning on
5 Plaintiff's Exhibit #7.

6 MR. ROBERTS: Wait. Plaintiff's
7 Exhibit #7, the one that's marked,
8 where is that, the exhibit?
9 Okay. Good. I just wanted to be
10 sure it was Exhibit #7.

11 Q. So that's the four lots. So we -- if this is
12 correct, we can assume that that gives us an
13 idea of when the property was purchased
14 beings or optioned, the beginning. And that
15 was 1991. And we had an appraisal to Carmike
16 on Carmichael. Are they local?

17 A. I think they're in Montgomery.

18 Q. Okay. You don't know if they're MAIs, I
19 guess, do you?

20 A. I don't know.

21 Q. All right. Why did you deem it necessary to
22 have it appraised back then and not, as you
23 said, you don't want to do it now?

1 A. At this time, there was an offer on the table
2 with the Nissan dealership.

3 Q. Okay. And that fell through, I assume?

4 A. Yes.

5 Q. All right. The option was extended to Ralph
6 Bennett. And there was a design -- Southern
7 Survey and Design. Are they still around?

8 A. I -- I think so.

9 Q. Okay. Do you have a survey on the property?

10 A. Yes.

11 Q. Okay. Again, we should make a note we'd like
12 to request a copy of the survey through your
13 attorney. We'll file, but if you could be
14 getting it together.

15 All right. Quite a good bit of money
16 went to Southern Survey and Design. Am I
17 right to assume that you would have had some
18 nonrefundable earnest money before you spent
19 all this money on a proposed sale?

20 A. I don't understand. What nonrefundable
21 earnest money are you talking about?

22 Q. Well, were you willing to spend all this
23 money prior to having some reimbursement if

1 the Nissan deal went south?

2 A. Well, I don't know. Dad did most of the
3 discussion with Southern Survey and Design.

4 Q. That's fine. That's the answer. No
5 problem. So ultimately, as far as you know,
6 the money was defaulted? I mean, when they
7 didn't go forward, y'all didn't get any --
8 get to keep any of the earnest money?

9 A. There was no earnest money. It was strictly
10 a proposal.

11 Q. Okay. So there wasn't really a contract at
12 all, then, if you know. Long time ago. I
13 wouldn't know.

14 A. I -- I don't recall.

15 Q. That's all right. It would have shown up as
16 income to I-65 if there had been; is that
17 correct?

18 A. Oh, yes.

19 Q. Okay. Now, along this line, there's
20 virtually no income all these years.
21 Everything I see on this recapitulation, as
22 I'll call it, is expenses. So am I correct,
23 other than the billboard, there's virtually

1 been no income off of I-65 Investment,
2 Inc. -- or I-65 -- excuse me -- Properties?

3 A. That's right.

4 Q. What is the rental -- is there only one
5 billboard on the property on I-65?

6 A. Only one billboard.

7 Q. And what is the annual rental on that?

8 A. \$600 year.

9 Q. Okay. And how long is the lease on that, if
10 you know, approximately?

11 A. I don't recall.

12 Q. Was it perhaps a 20-year lease is why it's so
13 low at 600?

14 A. I don't know.

15 Q. Okay. Similar billboards, unless it's been
16 under a long-term lease and got the Lady Bird
17 Johnson brouhaha, but normally would be about
18 \$800 a month. So are you just under a real
19 restrictive lease that you can't go up on the
20 rent?

21 A. I -- I don't know about \$800 a month.

22 Q. Okay. Who is the tenant? Which company is
23 the -- is the tenant on the billboard?

1 A. Okay. TD&O leases the land from I-65
2 Properties. Okay? They, in turn, turn
3 around and lease their permit to Lamar
4 Advertising.

5 Q. Okay. That's good. So as far as you know,
6 TD&O could be getting significantly more
7 money than \$600 a year; is that right?

8 A. Yes, sir.

9 Q. Do you know how much TD&O does in fact get?

10 A. They get \$5400 a year.

11 Q. Okay. Do the math for me. It's not much
12 more. About 12 -- all right. Was there any
13 reason that TD&O was the -- that there is
14 that lease to TD&O by I-65 and then TD&O --
15 was there some kind of a legal liability,
16 some reason TD&O got into it, as opposed to
17 just a direct lease from I-65 to Lamar
18 Advertising?

19 A. Well, TD&O had the permit.

20 Q. Okay. They took out the permit?

21 A. They owned the permit.

22 Q. Okay. But anybody could take out -- if you
23 could get the permit, I-65 could have just as

1 easily got the permit, right?

2 A. I don't know. I -- TD&O is really an
3 advertising company.

4 Q. Okay. Does TD&O -- I would like to get a
5 copy of the lease, because if the -- if the
6 sign cannot be moved to another location or
7 pay a default amount, it could have an impact
8 on the fair market value of the property.
9 Are you aware of that?

10 A. I -- I'd have to look at the terms of the
11 lease.

12 Q. I'd like to get a copy. And we'll ask for
13 it, if it's a lease, between TD&O and Lamar
14 Advertising. And then if I understand you
15 right, TD&O pays I-65 about \$600 a year; is
16 that right?

17 A. Yes, sir.

18 Q. And TD&O earns around \$5400 a year. And TD&O
19 has the sign permit. And you're not sure if
20 the lease can be canceled based on --
21 withdraw that.

22 When billboards are put up like that,
23 frequently, Lamar Advertising, in particular,

1 A. Not that I recall.

2 Q. Okay. And --

3 A. The capacity of that line?

4 Q. Yes. Well, not the line. Ultimately, the --
5 the pumping station itself. Question, do you
6 know --

7 A. No.

8 Q. -- where the pumping station is for
9 Millbrook?

10 A. I -- no, sir.

11 Q. Okay. And you've never inquired as to
12 whether or not you could -- the property,
13 I-65, could tap onto it, correct?

14 A. Have I inquired about it?

15 Q. Yes. Yes.

16 A. Yes, sir. That's what Mr. Crumpton did.

17 Q. Yeah, but I'm talking about recently, in the
18 year.

19 A. No, sir.

20 Q. So you haven't -- maybe since 2003, you
21 haven't inquired?

22 A. No, sir, not that I remember.

23 Q. You're a partner in Saxon Properties. And it

1 appears that the creek, Millbrook -- well,
2 no, what's the name of the creek? Hudson
3 Branch. It appears that it goes right
4 through the Saxon Properties. Do you know,
5 as a 50 percent owner, if that Saxon
6 Properties, the 5.3 acres, is tapped onto
7 that sewer?

8 A. Yes.

9 Q. Okay. And how -- when did they tap on?

10 A. In 2005.

11 Q. Okay. Who secured the permit to tap on?

12 A. Saxon Properties, I would think.

13 Q. Okay. But who would I want to talk to
14 about -- since you don't know many about taps
15 and sewers and that, who would I want to talk
16 to, to get that information?

17 A. Millbrook Sewer.

18 Q. Okay. Who from Saxon Properties would have
19 made contact in order to get the tap? I
20 think Mr. Cleveland is a 50 percent owner.
21 Would it be him maybe?

22 A. I -- I don't recall. Either him or me.

23 Q. Okay. So that was around 2005. I think this

1 would each receive 50 percent of their
2 parents' 60 percent. Now, if you know, was
3 that the reasoning of your parents, yes or
4 no?

5 A. I don't know.

6 Q. You don't know. Have you ever known
7 Mr. Taunton to make mistakes. He's a CPA,
8 and they're not like lawyers. They're very
9 detailed. Is that right?

10 A. I don't know that.

11 Q. Would Mr. Taunton take seriously -- as your
12 accountant responding to an attorney, would
13 he take that seriously and try to verify
14 things that he says in the letter?

15 A. I think he would take it serious and produce
16 the information that was requested.

17 Q. So at this point, since you don't know what
18 your parents' intent was, you don't have any
19 reason to question Mr. Taunton's opinion at
20 this point, do you?

21 MR. CLEVELAND: Nor substantiate it.

22 MR. ROBERTS: Nor substantiate it.

23 Q. Is that correct?

1 A. That's correct.

2 Q. All right. Read the rest of that. I've let
3 you read it off the record, but read the rest
4 of it. I just want to be sure, since you
5 weren't sure of that -- and I'm trying not to
6 take a lot of time, but I-65 didn't pay cash
7 but tendered a mortgage. No problem with
8 that, right?

9 A. Yes.

10 Q. Yes. She can't read it a head shake.
11 Subsequent to the corporation acquiring the
12 real state, there have been ongoing costs,
13 such as property taxes, annual franchise
14 privilege. You don't have a disagreement
15 with that. We have a document that appears
16 to be ongoing costs, correct?

17 A. Yes.

18 Q. All right. And there were -- as time passed,
19 you don't have any argument that you either
20 paid some of those expenses or put money into
21 the account to pay the expenses, correct?

22 A. Correct.

23 Q. Okay. That's #9. Following up, we have

1 were unfavorable.

2 Okay. Is that a correct statement by
3 Mr. Taunton, as far as you know, of the
4 reason for appraisal and the reason that it
5 was made?

6 A. Well, you would have to ask Mr. Taunton. He
7 wrote the letter.

8 Q. That's fine. Okay. Did you ever ask Donna
9 or discuss the note with Donna, since she was
10 not on the note or anything, prior to the
11 year 2000?

12 A. Discuss the note with her?

13 Q. The note that's attached here, the promissory
14 note.

15 A. Absolutely.

16 Q. You did?

17 A. Yes, sir.

18 Q. And what, if anything, did you discuss or
19 tell her?

20 A. Just that we owed that money to Dorsey Motor
21 Sales.

22 Q. Do you have any kind of a letter or anything
23 where you forwarded it to her?

1 A. No.

2 Q. Okay. When did --

3 A. I think we were at Mom and Dad's house.

4 Q. Okay. And that would have been your -- I
5 think your testimony is it would have been
6 contemporaneous sometime around the '90 --
7 '90s is when you signed the note?

8 A. Contemporaneous?

9 Q. Contemporaneous. Would it have been before
10 you signed the note or after?

11 A. I think it was before we signed the note.

12 Q. Okay. Would anyone else -- would Ms. Dorsey
13 your former -- Connie. Does she still go by
14 Dorsey?

15 A. I don't think so.

16 Q. I'll just have to call her by her first
17 name. Would Connie know potentially about
18 that?

19 A. I don't know.

20 Q. Okay. Have you discussed this lawsuit with
21 your former wife, Connie?

22 A. No.

23 Q. Where does she live, if you know? In

1 have to check his records.

2 MR. ROBERTS: No. I asked about
3 minutes. I'm asking about a
4 meeting, just a meeting.

5 MR. CLEVELAND: You mean a meeting
6 other than a shareholders'
7 meeting?

8 MR. ROBERTS: Yes. Well, just a
9 meeting. I'm trying to
10 establish -- the purpose --

11 MR. CLEVELAND: I'm trying to
12 understand.

13 MR. ROBERTS: Let me tell you where I'm
14 going.

15 Q. Let me tell you where I'm going. I'm going
16 with I don't think this is a corporation. I
17 think it's property owned tenancy in common
18 or whatever. And I don't think for ten
19 years, there was absolutely any communication
20 with my client about the property or what's
21 going on or whatever. Am I wrong on that?

22 A. That's wrong.

23 Q. Okay. Now, tell me why I'm wrong.

1 A. Because we would talk about it at Mom and
2 Dad's house.

3 Q. Okay. About how many times in ten years did
4 we talk about it at your mother and dad's?

5 A. I don't recall.

6 Q. Less than ten?

7 A. I don't recall.

8 Q. Okay. We don't have fees for meetings of
9 I-65; so if there were meetings during that
10 ten-year period, it would have had to have
11 been very informal and not held at a lawyer's
12 office. Is that correct?

13 A. It was held at my mother and father's house.

14 Q. Okay. Thanksgiving, Christmas, something
15 like that?

16 A. I don't recall.

17 Q. No formal meetings, though, am I correct?

18 A. I don't recall. I don't remember.

19 Q. If Donna says there were none, do you have
20 any reason to challenge that?

21 A. Yes.

22 Q. Why if you don't recall?

23 A. That's not the truth.

1 Q. Well, then, I need the truth. You either
2 recall or you don't. So there were formal
3 meetings or there weren't. Which one?

4 A. There was no formal meetings. There were
5 meetings at the house where we discussed the
6 property. We discussed a lot of things in
7 business.

8 Q. Were they called meetings?

9 MR. CLEVELAND: What do you mean by
10 called?

11 MR. ROBERTS: The bylaws say that
12 they're to be called and all of
13 this. We've got the bylaws if you
14 need to see them. They're in
15 evidence.

16 Q. I understand brothers and sisters sometimes
17 don't go through total formalities, but I'm
18 really trying to ascertain if there were
19 formal meetings for a ten-year period from
20 '90 to 2000.

21 A. I'd have to check my records on that.

22 Q. If you'll do that and let me know, I will
23 hold you to that and appreciate it.

1 All right. Do you ever remember your
2 father telling you and Donna or Donna that
3 the note, meaning the promissory note, was
4 paid off?

5 A. Paid off by who?

6 Q. Just paid off. I don't know by who. I'm
7 traveling on a document that I have.

8 A. No.

9 Q. You don't?

10 A. Unh-unh.

11 Q. Are you aware that until a December 2000
12 meeting with Alan Taunton, Ms. Dorsey
13 indicated at that meeting that she didn't
14 have any knowledge of the note until December
15 2000? Do you remember her saying that?

16 A. Ms. Dorsey --

17 Q. Donna.

18 A. Donna.

19 Q. Your sister.

20 A. No.

21 Q. Excuse me. Donna Davis. You don't remember
22 that?

23 A. No.

1 Q. Do you believe -- and I think your earlier
2 testimony was that you discussed the note or
3 the promissory note, we'll call it, with
4 Donna. Is that your testimony?

5 A. Correct.

6 Q. And that she knew about it completely during
7 this ten years?

8 A. She knew about it at the time the property
9 was moved.

10 Q. Okay. She knew about the note?

11 A. Yes.

12 Q. Okay. Now, have you been carrying the
13 interest that you claim to be owing by I-65
14 on your tax return as an account -- or your
15 balance sheet -- as an account receivable?
16 In other words --

17 A. On my personal tax return?

18 Q. No. Dorsey Motors purports to be the holder
19 of the note. Have you been carrying --

20 A. I don't know. We'd have to ask Mr. Taunton
21 that.

22 Q. Well, now, I do need -- that's going to be
23 critical. Part of our allegation in this

1 complaint is that this note is nothing, that
2 it was a gift. So I do need copies.

3 A. It wasn't a gift.

4 Q. I need copies. I think you used the word
5 gave, and I corrected you on that. I'm
6 sorry. I was using your word "gave," and
7 that's what threw me off. I'm assuming that
8 we can get, through your attorney, if we ask
9 for them, the tax returns of Dorsey Motor for
10 the last five years?

11 A. Sure.

12 Q. Okay. Do you know if Donna was furnished
13 those returns earlier, from the year 1990
14 through about 2000? Did she get copies of
15 the corporate tax returns?

16 A. Corporate tax returns for what?

17 Q. For I-65.

18 A. I'd have to check my notes. I thought you
19 were talking about Dorsey Motor Sales.

20 Q. No, no, no. She wasn't have had any reason
21 to get that. All right. Was there ever a
22 meeting after 2000 that Donna was invited to
23 attend that the meeting had already

1 A. I don't know if I did or not. Mr. Striplin
2 is retired.

3 Q. He is?

4 MR. CLEVELAND: I believe your question
5 was the last five years.

6 MR. ROBERTS: And that was before that.

7 MR. CLEVELAND: That would have been
8 before that.

9 MR. ROBERTS: Thank you. I appreciate
10 that.

11 Q. Now, Ralph Bennett is -- who is Ralph
12 Bennett?

13 A. Ralph Bennett owns a business adjacent to
14 some of the property.

15 Q. Okay. And what's -- is he -- I've
16 forgotten. Which business?

17 A. Toys for Men.

18 Q. Motorcycles, if I took a long --

19 A. A lot of things.

20 Q. A lot of things. All right. And you bought
21 some property from him?

22 A. Yes, sir.

23 Q. Okay. Were any of the I-65, Incorporation,

1 funds used to purchase that property?

2 A. I-65 had the options on a property when the
3 we were working on the Nissan project. When
4 the Nissan project went away, then rather
5 than lose the options that had been paid to
6 Ralph Bennett, because I-65 couldn't afford
7 to buy the property, then I turned around and
8 had a couple of weeks and I developed a
9 business plan and purchased the property in
10 CD&O. And we bought the options from I-65.

11 Q. Okay. And which one of these properties is
12 the one we're talking about on Plaintiff's
13 #7?

14 A. These.

15 Q. All four properties?

16 A. Yes, sir.

17 Q. Now, pardon me, but I didn't understand
18 earlier that I-65 ever had an option on these
19 four properties shown on Plaintiff's #7
20 immediately south of the Cobbs Ford Road. I
21 just missed that, didn't I?

22 A. Well, I had forgotten about it myself until I
23 saw this option check in here, Ralph Bennett

1 option.

2 Q. Okay. And he's referring to Plaintiff's --

3 A. On 01, looks like January 10th of '91.

4 Q. You're referring to Plaintiff's Exhibit #8?

5 A. Yes, sir. It's been a long time ago.

6 Q. And the money to Ralph Bennett was paid by
7 I-65. So I-65 actually had the option on
8 four lots, January 10th, 1991?

9 MR. CLEVELAND: It was paid from I-65,
10 right. Right.

11 Q. Paid from I-65.

12 A. Right.

13 Q. Now, did you tell Donna that I-65 had an
14 option to buy those four tracts of property?

15 A. Well, an option is not a business deal. An
16 option is a plan. And this was something
17 that my dad and I talked about long before
18 I-65 occurred. And so we said that if the
19 Nissan dealership comes there, then, like you
20 said, that other property adjacent is going
21 to be more valuable. And so we were looking
22 to get some expanding land. And we went to
23 see Mr. Bennett, and Mr. Bennett gave us an

1 option on it.

2 Q. Okay. But now you said long before I-65.
3 And by any account of these exhibits, I-65
4 came into being sometime around 1990.

5 A. Right.

6 Q. So this money was paid the 10th of January
7 1991. So it wouldn't be long before I-65 was
8 started.

9 A. I'm talking about the Nissan negotiations.

10 Q. Okay. Okay. But my point is I-65, meaning
11 the corporation, was in existence at the time
12 it purchased an option for \$2700 to buy those
13 four lots from Ralph Bennett; is that
14 correct?

15 A. Yes.

16 Q. Okay. Ultimately, it is your position that
17 that \$2700 that was paid and another 3,000
18 extension on the option, total of five -- how
19 did that money come back into I-65 if I-65
20 didn't exercise the option, or did it lose
21 the money?

22 A. Well, it would have lost the money to Ralph
23 Bennett, but what happened was CD&O picked up

1 the option from I-65 with a check in '90 --
2 it looks like November 24th of '93.

3 Q. Okay.

4 A. And I -- these -- these records -- I must beg
5 off. These are not my initial records. I'd
6 have to go through my files and get these --
7 get these checks, if they exist at all. That
8 long ago, 14, 15 years --

9 Q. Oh, I understand completely. Question,
10 though. How did you -- help me how you
11 looked at the '93 and you arrived at the fact
12 that this option was picked up by somebody
13 else. Help me with that.

14 A. Just remembered. That's all.

15 Q. But it's not on here, right?

16 A. Yes, sir. November 24th. But it doesn't say
17 what it's for. No, it does not.

18 Q. Okay. But that --

19 A. CD&O wrote a check for \$2100.

20 Q. All right. So now -- you mean for \$2,000?
21 Oh, I see the 2100 over there. I see 2,000
22 in the left column and 2100 in the other.

23 A. Well, that's what I'm saying. These are

1 not --

2 Q. Okay. But is this money that came out of --
3 is this money owed by I-65 or -- or money
4 that came from CD&O on behalf of I-65?

5 A. I don't know.

6 Q. Okay. You said earlier -- and I'm -- at one
7 point, you don't purport to be that
8 knowledgeable in real estate; but on the
9 other hand, a person who holds an option on a
10 piece of property has superior title during
11 the option period.

12 MR. CLEVELAND: Superior title or
13 superior right?

14 MR. ROBERTS: Superior -- it's really
15 title because it's the right to
16 buy. I'll use his word.

17 Q. Superior right. In other words, if I've got
18 an option to buy Cliff's office, he may be on
19 record as the 100 percent fee simple owner;
20 but he can't sell it if I've recorded an
21 option or even if I haven't. So this option
22 would have allowed I-65, had you chosen to do
23 it, to buy the property. Right or wrong?

1 Suzuki or any of these others? And I think
2 your testimony was he did have an interest in
3 the tract known as Shaw whatever. Not Shaw,
4 but the camper property. Is that the only
5 one, to your knowledge, that he is a co-owner
6 with you, either directly or indirectly or
7 otherwise?

8 A. Yes.

9 Q. All right. Did Mr. Cleveland, to your
10 knowledge, ever have an interest in the TD&O
11 or the DO or any of these others?

12 A. No.

13 Q. It was, yeah, CD&O. Was Alan Taunton ever
14 made a board member of I-65, Property, Inc.?

15 A. He was nominated, and he declined the
16 nomination.

17 Q. And he, I assume, never owned an interest in
18 any of these properties either; is that
19 correct?

20 A. No.

21 Q. No, he never owned an interest, right?

22 A. No.

23 Q. We're getting close. I've got a few

1 questions, and then we're going to go over
2 the complaint and your countercomplaint, but
3 I've got a couple more documents to show
4 you.

5 I'm showing you Plaintiff's #11. And
6 before we get into that, did there ever come
7 a time when you offered if Donna would give
8 up her 30 percent of I-65 Properties, Inc.,
9 that you would forgive -- meaning Dorsey
10 Motor would forgive -- 30 percent of the
11 total debt owed to, in your opinion, Dorsey
12 Motor?

13 A. That I made the proposal to her?

14 Q. Well, I'm asking you. Did you ever make that
15 proposal?

16 A. No.

17 Q. All right. Is it your position per this
18 letter that Donna made the overture?

19 A. Yes, sir.

20 Q. And you did acknowledge -- you acknowledge
21 that you got a fax from Donna rescinding the
22 verbal offer; is that right?

23 A. Yes, I got a fax.

1 Q. And that was before anything else had been
2 done to accept it; is that right?

3 A. Before anything else had been --

4 Q. Well, it hadn't been formally accepted.
5 Documents hadn't been drawn.

6 A. No. It had only been five days, and we had
7 to complete the document.

8 Q. I understand. All right.

9 A. I got a fax with Donna's signature on it.

10 Q. All right. Now, you state in here, I think
11 it's time to stop fighting and move ahead
12 with our lives. I represent Donna agrees
13 with that. Do you agree with that statement
14 you made?

15 A. Yes, sir.

16 Q. Now, Mr. Dorsey, you've testified you don't
17 know the value; but you are willing, whether
18 it was your offer or Donna's offer, to have
19 Donna walk away from her share of the
20 property, meaning the stock, in return for
21 your, meaning Dorsey Motor, erasing \$500,000
22 worth of debt. Right or wrong?

23 A. No. She made the offer to me.

1 Q. No, no, no. It doesn't matter who made it.
2 I'm saying that would have been agreeable
3 with you, correct?

4 A. No. She also wanted to settle the estate,
5 too.

6 Q. That would have been agreeable with you
7 because you said the proposal sounded good,
8 right?

9 A. Yes, sir.

10 Q. And in order to know if the proposal is good
11 or bad for Donna or you or I-65 or Dorsey
12 Motor, you would have had to have known the
13 value of the property, wouldn't you?

14 MR. CLEVELAND: Object to the form.

15 A. No, sir.

16 Q. You wouldn't?

17 A. No, sir.

18 Q. So my client Donna would be passing you 30
19 percent of a beautiful piece of property on
20 I-65, the freeway, in return for a debt on a
21 promissory note signed by you and Connie; is
22 that right?

23 A. Yes, sir.

1 Q. To your company; is that right?

2 A. Yes, sir.

3 Q. At a time, which I submit to you, there was
4 no I-65 Properties even in existence at the
5 time the note was signed, is that correct,
6 from what you've seen? I'm not asking you
7 for a legal opinion.

8 A. I don't agree.

9 Q. You don't?

10 A. I-65 Properties existed at the time the note
11 was made.

12 Q. Incorporated; is that right?

13 A. Yes, sir.

14 Q. And what do you base that on?

15 A. Good faith. Somebody made a clerical error,
16 an attorney missed a date, he got buried on
17 the desktop, any number of things.

18 Q. Kind of like good intentions? He had --

19 A. Sir?

20 Q. Kind of like you said good faith. You're
21 saying that lawyer had good intentions to
22 actually get this thing -- get the cart back
23 out?

1 MR. CLEVELAND: Well, that -- Dick, I
2 don't want you -- you have no way
3 of knowing what George Walthall's
4 intentions were.

5 A. Exactly. I don't know what his intentions
6 were. I don't know what went on down there
7 at the office.

8 Q. But it's your opinion that I-65 was a valid
9 corporation on the date that you signed that
10 note to your company, Dorsey Motor?

11 A. Yes, sir.

12 Q. Okay. Now, you and Donna are blood kin, is
13 that right? Whether either one of you wants
14 to claim it. Same mom and same daddy, right?

15 A. Yes, sir.

16 Q. Assume with me one time, the only
17 hypothetical I've asked you I think in this
18 case, if that property was worth eight or ten
19 dollars a square foot and the proposal had
20 sounded good to you, Donna could have been
21 out -- even if you except the note, the
22 promissory note -- it could have placed her a
23 million dollars in the hole. Do you disagree

1 A. I don't know.

2 Q. Under \$500,000?

3 A. I don't know.

4 Q. So when you say -- and I realize your lawyer
5 drafted the counterclaim, but Davis owes
6 Dorsey Motors -- excuse me -- owes Dorsey --
7 that would be you individually -- Dorsey
8 Motors, and TD&O the sum of \$518,645.16,
9 correct?

10 A. Correct.

11 Q. Would you break that down for me, just
12 roughly, since we're all friends, at a half
13 million how much you think she owes Dorsey
14 Motors, you individually, and TD&O?

15 A. Well, the only way to do that is to take the
16 \$250,000 original amount and extrapolate it
17 out at 12 percent a year and come up with
18 that figure. And of course, Dorsey Motor
19 Sales also paid some of the other expenses
20 and ad valorem taxes and, you know, loaned
21 money to I-65 for that. And then TD&O loaned
22 I-65 money, too.

23 Q. A couple thousand dollars?

1 A. I don't know.

2 Q. Okay. That brings up the main point. Did
3 there ever come a time that you felt like
4 charging -- meaning Dorsey Motor charging
5 I-65 12 percent when LIBOR was down around
6 four, that that was usurious and outrageously
7 high?

8 MR. CLEVELAND: Object to the form.

9 Q. You can answer.

10 A. What's LIBOR?

11 Q. It's a method by which banks -- today you can
12 borrow money at 4 percent. LIBOR is about
13 five, and it changes daily. So most banks
14 love -- it's kind like a floating amount.
15 They like to have you sign on at LIBOR plus
16 2 percent or LIBOR plus three. It's an
17 index.

18 A. Kind of like prime?

19 Q. Like prime, yes, only they like it better. I
20 think they created it. So now my question is
21 this is your sister, Donna Davis. We
22 established that, somewhat reluctantly. Did
23 you ever come to a point where since you were

DUNN, KING & ASSOCIATES

Montgomery, Alabama

(334) 263-0261 or (800) 359-8001

1 the beneficiary of the 12 percent and you
2 also owed interest at 12 percent to yourself
3 that you could forgive anytime you wanted to,
4 that it was unfair to charge one sister 12
5 percent when prevailing rate was somewhere
6 between five and six?

7 A. Well, I don't know what the rate was back
8 then, but my dad set the interest rate. And
9 as far as I can forgive myself the interest
10 rate, I'd like that. That would be good.
11 But you can't do that.

12 Q. Is that because you would have to pay
13 ordinary income tax on all this money?

14 A. I have no clue about that, but you can't do
15 for one that you don't do for the other.

16 Q. Well, that's exactly right. And you could
17 have done for yourself and for Donna. You
18 could have adjusted the -- we contend the
19 note is a gift and that it's bogus from the
20 beginning.

21 A. Well, not so.

22 Q. Well, I'm accepting that --

23 A. My father knew differently. He set the

1 interest rate.

2 Q. Right.

3 A. And I'll leave it at his interest rate.

4 Q. Oh. So we don't change the interest rate
5 when the interest rate drops; we just
6 continue conveniently.

7 A. My father had a reason for doing it, and I'll
8 bow to him.

9 Q. You'll stay with that.

10 A. Yes, sir.

11 Q. Even though there was a time, many times,
12 when a fair interest rate would have been, do
13 you agree, significantly less than 12
14 percent?

15 MR. CLEVELAND: Object to the form.

16 Q. You can answer.

17 MR. CLEVELAND: Whatever significantly
18 means.

19 A. I have no idea. I just know that that's what
20 my dad did, and he had a reason for doing it.

21 Q. And your dad and your mother are dead. And
22 your only surviving sibling is my client,
23 Donna Dorsey Davis. So she lives with this

1 of it as far as accountability, but -- and I
2 don't even remember when it was. It was some
3 time ago.

4 Q. Do you think that it was his opinion that the
5 property should be transferred from the
6 corporation to the LLC?

7 A. Well, I -- I think that's where he was going;
8 but after I got into it, the LLCs are such an
9 unknown quantity and, to me, appear to be
10 loose.

11 Q. Did it ever come up from Mr. Taunton to you
12 that it could create a large tax liability to
13 Dorsey Motor Sales if that note was
14 transferred out of I-65?

15 A. No. Because we didn't do that.

16 Q. Okay. Was I-65, in your opinion,
17 undercapitalized at its conception; in other
18 words, didn't have enough money to pay its
19 bills and all, had no visible source of
20 income other than a billboard?

21 A. That's true.

22 MR. CLEVELAND: You mean at inception,
23 though?

1 Q. Yes.

2 A. At inception. That's why the Nissan deal, we
3 worked so hard on that.

4 Q. All right. And since that, you really
5 haven't worked hard on any other sales, have
6 you?

7 A. Sure.

8 Q. You have?

9 A. Yes.

10 Q. I was going to ask you earlier, you know,
11 shopping centers are being sold over the
12 Internet now based on fair market value,
13 appraisals. Wouldn't it be a great idea at
14 least to put it on the Internet, beautiful
15 property located at the intersection of Cobbs
16 Road and I-65, sewer available? And you
17 never know. The Japanese might pick that one
18 up. I mean, a lot of property sells sight
19 unseen. Would that not be a good idea to
20 market it, or do you really want to market
21 that property?

22 A. Sure. Property is always marketable.

23 Q. If I had come to you and said I want to buy

1 Q. I think so.

2 A. Okay.

3 Q. Do you have any problem with Donna -- if
4 you're not willing to pay for it, with Donna
5 having it appraised?

6 A. No.

7 Q. Okay. That's exactly what we plan to do.
8 I'm giving you an offer to choose an MAI of
9 our joint choosing. And I'll leave it open
10 for Mr. Cleveland. That way, it might be a
11 little more salient if we get down to a point
12 where this corporation is not an entity and
13 it's just property owned 70-30. But if you
14 choose to, let us know. If not, we'll go
15 ahead with the best MAI we can get.

16 All right. I think we're almost
17 through. All I've got to do is go through
18 the complaint with you.

19 MR. ROBERTS: And I need about a
20 ten-minute break max, and it
21 shouldn't take us -- the time is
22 three o'clock.

23 (Brief recess)

1 Q. All right. Tell me if I'm wrong. We're
2 moving fast. You own 100 percent of CD&O,
3 LLC, and you own 100 percent of TD&O, LLC.

4 A. TD&O, Inc.

5 Q. Oh. you own 100 percent of that?

6 A. Yes, sir.

7 Q. And 100 percent of CD&O, LLC?

8 A. Yes, sir.

9 Q. All right. I'm just going to go over the
10 complaint very quickly with you. Donna, your
11 sister, alleges on behalf of herself and,
12 derivatively, on behalf of the corporation
13 I-65 basically that you have done a lousy job
14 of managing the property. Some of the
15 reasons we can augment today: Don't know
16 what the property is worth, would consider an
17 offer without an appraisal; don't know for
18 sure where the sewer is; don't, don't, don't.
19 So, that's the essence. That's a summary.

20 Donna alleges that the note itself -- by
21 the way, have you read the complaint?

22 A. Yes, back when it was filed.

23 Q. All right. She alleges that -- let's see.

1 I've got to go to three -- that you used your
2 position -- this is under factual
3 allegations, number 10 -- used your position
4 to control I-65 and its assets and to manage
5 I-65 in a manner oppressive to her, the other
6 stockholder, in violation of what we lawyers
7 call a fiduciary duty. And she alleges you
8 failed to provide her with documents and
9 access information as required by law; denied
10 the shareholders meaningful participation in
11 the management of the affairs, either
12 directly or through proxy; and that you have
13 caused I-65 -- stripped it of any future
14 profits by acquiring all of the surrounding
15 land on Plaintiff's Exhibit #7.

16 If my memory serves you right -- and you
17 have an excellent lawyer. He denied all of
18 that, I assume. Do you deny that here today?

19 A. Yes.

20 Q. Okay. That's the way we move faster. She
21 alleges you engaged in self-dealing, that
22 it's permitted you to unlawfully participate
23 in profits of the business at the expense of

1 the minority shareholder and I-65 as a
2 whole. That, we didn't know for sure; but
3 that would be by taking an option in I-65's
4 name and then using it yourself to purchase
5 adjoining property. And I don't think you
6 deny that you bought -- I mean your testimony
7 is you took the I-65 option and either
8 assigned it or let it lapse such that one of
9 your companies was able to buy the four
10 properties shown on Plaintiff's #7. Do you
11 disagree with that?

12 A. Well, CD&O took the option, because I-65 was
13 going to let it lapse and lose the money.
14 And CD&O then took the option and paid the
15 money to I-65, which I think, in turn, paid
16 the money back to Dorsey Motor Sales, where
17 they borrowed it. I'd have to go trace it
18 back, but this was back in 1991.

19 Q. I will greatly appreciate it if you can trace
20 back and maybe a copy of the option.

21 MR. CLEVELAND: That's what I was going
22 to say. Before we start admitting
23 or denying our understanding about

1 A. I'm sure I told her about the options and the
2 Nissan project.

3 Q. Okay.

4 A. Because they were in conjunction together.

5 Q. About the same time. Okay. So Nissan -- as
6 I said earlier, a dealership would need more
7 than ten acres. I mean, that's -- am I
8 wrong?

9 A. I think so.

10 Q. Wouldn't a dealership normally need at least
11 20 acres?

12 A. I don't think so.

13 Q. Really? Okay. You think ten acres is
14 sufficient on a freeway?

15 A. I don't think it needs ten acres.

16 Q. Okay. She also alleges that you acted
17 negligently towards the interest of I-65 by
18 failing and refusing to commit the time and
19 resources that were necessary to oversee I-65
20 as opposed to your competing businesses. You
21 disagree with that?

22 A. I disagree with that.

23 Q. She claims that under certain case law, that

1 you have been oppressing her and attempting
2 to squeeze her out. Disagree?

3 A. Disagree.

4 Q. Okay. We're almost there. She claims you
5 breached your fiduciary duty to her as a
6 minority stockholder. Disagree?

7 A. Disagree.

8 Q. Negligence. She claims that you have been
9 negligent in the operation of the Dorsey --
10 of the I-65 by virtue of, among other things,
11 like today, not having appraisals, not
12 knowing the location of the sewer or tap
13 fees, paying advanced tap fees. Disagree
14 with that?

15 A. I disagree.

16 Q. Okay. Other than sitting on the property,
17 what have you -- and paying the bills -- what
18 have you done that would -- would refute
19 these allegations as to your proficiency as a
20 manager of this very valuable real estate, if
21 any?

22 A. Well, I think the records you produced showed
23 some action when we entertained the Nissan

1 project, when we hired an attorney to speak
2 to Millbrook City Council on the sewer
3 question, when we defended the illegal
4 placement of the signs at the entrance to the
5 property by K Bar K., when we also acquired a
6 movement of Millbrook's -- I mean -- excuse
7 me -- Prattville city limits across the
8 interstate. We had the city limits moved.

9 Q. All right. To be in Prattville?

10 A. Yes.

11 Q. Okay.

12 A. When we engineered -- or not engineered --
13 got the estimate on repiping the drainage
14 from across the property to a common line
15 with the State of Alabama to move the
16 drain -- the drainage from the center. We
17 paid our taxes.

18 Q. Okay. That's good. I just wanted to give
19 you an opportunity -- since Ms. Davis is
20 alleging that you breached your duty and all,
21 I wanted to give you an opportunity to state
22 what all you felt like you did that was
23 right.

1 A. Told people to stop dropping old washing
2 machines on the property.

3 Q. And tires.

4 A. Run off Vietnamese picking bamboo shoots for
5 their restaurant, put up security poles and
6 chain, reported the illegal dumping of the
7 tires on the property, among other things
8 that I can remember right off the top of my
9 head.

10 Q. Let the record show I'm not saying that
11 that's all that you've done. That just gives
12 you an opportunity to respond.

13 Okay. Now, do you have any problem with
14 erecting a sign that has an outline of the
15 property? You know, you can take a
16 four-by-eight sheet of weather-proof plywood,
17 marine plywood, and you can reproduce the
18 outline of the property and maybe, this
19 desirable nine point acres with sewers,
20 zoned, available for ground lease or sale?
21 Wouldn't that be a good idea to -- it's like
22 fishing. You throw that hook out there and
23 see if you can catch somebody. If it isn't,

1 you how to sell real estate. I think that
2 based on my client's position, that what you
3 just said proves -- nothing personal, but
4 that you have not managed the property
5 properly. Because I agree with you,
6 lookie-lou's all the time. But approximately
7 a week ago, got a contract for a million
8 seven from Graham and Company on I-65
9 property that I own with a couple of
10 partners. Graham and Company has a net worth
11 of probably \$150 million. I didn't have to
12 run up and down the highway wondering if they
13 were good.

14 In Cliff Cleveland was buying it with
15 their money -- and I'm not being facetious,
16 but someone of means -- I'd go talk to Cliff
17 if he came up there and wanted to buy some
18 property or the GMAC dealership or the bank.
19 So I'm just saying to you it strikes me as
20 there is a reason that you have sat on it
21 like a mother hen. Am I wrong that you have
22 sat on it without advertising it, doing
23 anything to try to sell it?

1 A. I thought it was a good business decision.

2 Q. Okay.

3 A. Prattville is going to grow. And I knew
4 eventually the property would go up in value.
5 As far as whether I'm open for legitimate
6 offers, bring me a legitimate offer, then
7 we'll look, then we'll talk, then we'll think
8 about an expensive appraisal.

9 Q. But what about people that don't know -- I
10 mean, with no sign, how do they even know
11 it's for sale or ground lease? If I give you
12 that, how do they know it's available for
13 ground lease?

14 A. Real legitimate land developers find out who
15 owns what.

16 Q. Because they have to go to the courthouse,
17 run the records, find Dick Dorsey. It's a
18 little harder than seeing a sign, this
19 property for ground lease. I won't argue
20 with you on it. I'm just saying I thought it
21 might be, after this deposition, that as this
22 litigation progresses, it might be favorable
23 to help you get this interest you're claiming

1 for yourself and Donna to try to sell the
2 property.

3 A. I thinks think it's in the best interest of
4 the property and I-65 to work the property
5 for a ground lease. I think it's in the best
6 interest of I-65 to work the property
7 possibly on a co-development basis.

8 Q. Okay. Now, let me ask you a question on
9 that. This is probably the last one. I
10 reserve the right for Ms. Erwin to feed me
11 one more or two questions. But if the
12 property were ground leased tomorrow, it
13 wouldn't be for anywhere near its fair market
14 value; and you would still have a meter of 12
15 percent running on Donna Dorsey Davis, which
16 she probably couldn't come up with five or
17 600,000 dollars. And there's where you would
18 wipe her right off the map. Right or wrong?

19 A. I don't think like that.

20 Q. You don't?

21 A. No, sir.

22 Q. Well, let's say it was worth \$10 million.

23 With a 10 percent return -- we'll just throw

1 that out -- would be a million dollars a year
2 for the ground lease. And you look over at
3 Donna and say, now, Donna, we're only getting
4 a million dollars a year. We got to pay
5 taxes, upkeep. We got to do all these
6 things. And now you owe Dorsey Motor 600,000
7 and counting. She wouldn't have enough money
8 to pay you if that is a legitimate debt to
9 pay Dorsey, right?

10 A. I don't know. I don't know your numbers.

11 Q. Well, that's just her problem, then, right?
12 She owes money -- or at least her 30 percent,
13 owes that money?

14 A. We both owe the money.

15 Q. Okay. And a ground lease is what is your
16 preference, and that's what you've been
17 looking for. And you're waiting on somebody
18 to find you, right?

19 A. Ground lease or co-development.

20 Q. All right. Now, if a co-development took
21 place, are you familiar with subordination?

22 A. You'll have to give it to me simple.

23 Q. Normally in a ground lease, any lender that

EXHIBIT “4”

**Articles of Incorporation for
I-65 Properties**

Jan-20-00 03:16P

STATE OF ALABAMA
ELMORE COUNTY
I CERTIFY THIS INSTRUMENT
WAS FILED ON:

Sec. 17 St.
P. 12.00

P. 03
2.00
36.00
50.00
88.00

STATE OF ALABAMA
ELMORE COUNTY

OCT 9 3 35 PM '90

ARTICLES OF INCORPORATION
OF

I-65 PROPERTIES, INC.

TO THE HONORABLE JUDGE OF PROBATE OF ELMORE COUNTY, ALABAMA:

KNOW YE: That the undersigned, desiring to become a body incorporated under the general laws of the State of Alabama, for the purpose of carrying on a lawful business, and being all of the subscribers to the capital stock of the corporation hereby organized, do make, sign, and file these Articles of Incorporation as follows:

ARTICLE I

The name of the Corporation shall be: I-65 PROPERTIES, INC.

ARTICLE II

The corporate powers shall be exercised by the Board of Directors, except as otherwise provided by statute or by this Certificate of Incorporation. The Board of Directors shall consist of not less than one (1) nor more than seven (7) members. In the event of the death or resignation of a Director, a stockholder or stockholders, a successor shall be elected at the next regular called meeting. All officers and directors shall hold office for a period of one (1) year or until their successors are elected and qualified. It shall not be required of a person to own stock in the corporation in order to be a Director of the corporation. However, any officer or director of the corporation can be removed at a called meeting of the stockholders on a vote of a majority of

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the holders of the capital stock of the corporation; at least ten (10) days notice of the time and place of said called meeting shall be given. There shall be one vote cast for each share of stock represented. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:

(1) to make and alter the By-laws of the corporation by By-Laws made by the Directors may be altered or repealed by the directors or stockholders.

(2) To make and use a corporate seal, and to alter the same at pleasure.

(3) To fix and determine and to vary the amount of working capital of the corporation; to determine whether any, and if any, what part of any accumulated, the date or dates of the declaration and payment of dividends; to direct and determine the use and disposition of any surplus or net profits over and above the capital stock paid in.

(4) The corporation may, in its By-Laws, confer powers upon its Board of Directors in addition to the foregoing, and in addition to the powers and authorities expressly conferred upon it by statute.

ARTICLE III

The purpose for which this corporation is organized are as follows:

1. To erect, construct, maintain, improve, rebuild, enlarge, alter, manage, and control, directly or through ownership of stock in any corporation, any and all kinds of buildings, houses, stores,

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offices, shops, warehouses, factories, mills, machinery, and plants, and any and all other structures, erections which may in the judgment of the Board of Directors at any time be necessary, useful or advantageous, for the purposes of the corporation, and which can lawfully be done under the laws of the State of Alabama.

To make, enter into, perform and carry out contracts for construction, building, ^{ing}altering, improving, repairing, decorating, maintaining, furnishing and fitting up buildings, tenements, and structures of every description, and to advance money to and enter into agreements of all kinds with builders, contractors, property owners and others, for said purposes.

To design, draw and prepare plans, specifications and estimates for and to supervise, bid upon, enter into and execute contracts for the construction and alteration of buildings, structures, and any other engineering or construction project or enterprise of any nature whatsoever.

The purposes for which the Corporation is formed and the business or objects to be carried on and promoted by it, or any one or more of the acts and things herein set forth, and for the accomplishment of these purposes and the carrying on and the promotion of said business and said objects, the Corporation shall have, and may exercise, all powers conferred upon it by the laws of the State of Alabama, now or hereafter in effect.

Generally to carry on and undertake any other lawful business of the same general nature, which may from time to time seem to the directors of the corporation capable of being conveniently carried on in connection with the above objects, or calculated directly or

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indirectly to render valuable or enhance the value of any of the Corporation's properties, privileges or rights.

ARTICLE IV

The total authorized capital stock of said corporation shall be the sum of ONE THOUSAND AND NO/100 DOLLARS, consisting of One thousand shares of common stock of the par value of ONE AND NO/100 DOLLARS per share. The corporation shall begin business with a subscribed capital stock of ONE THOUSAND AND NO/100 DOLLARS, consisting of ONE THOUSAND AND NO/100 DOLLARS shares of common stock of the par value of ONE AND NO/100 DOLLARS per share, all fully subscribed and paid for as shown by certificate hereto attached, as Exhibit "B".

ARTICLE V

The officer or agent designated by the incorporators to receive subscriptions to the capital stock and to act as the registered agent for the corporation is one and the same person, being RICHARD M. DORSEY, Post Office Box 26, Prattville, Alabama 36067.

ARTICLE VI

The name and post office address of the incorporators and the number of shares subscribed for by him is as follows:

- (a) RICHARD M. DORSEY
Post Office Box 26
Prattville, Alabama 36067
Seventy (70)
- (b) Donna D. Davis
3612 Westbury Road
Birmingham, Alabama 35223
Thirty (30)

The name and post office address of the members of the Board of Directors of the corporation for the first year is as follows:

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(a) RICHARD M. DORSEY
Post Office Box 26
Prattville, Alabama 36067

(b) DONNA D. DAVIS
3612 Westbury Road
Birmingham, Alabama 35223

The names and addresses of the officers of the corporation
chosen for the year is as follows:

(a) RICHARD M. DORSEY
Post Office Box 26
Prattville, Alabama 36067
PRESIDENT/TREASURER

(b) DONNA D. DAVIS
3612 Westbury Road
Birmingham, Alabama 35223
VICE PRESIDENT

(c) CONNIE S. DORSEY
Post Office Box 26
Prattville, Alabama 36067
SECRETARY

The office of the President, Vice-President, Secretary and
Treasurer may be separate or they may be combined with each other
or any other office of the corporation.

ARTICLE VII

The location of the principal office of the corporation shall
be at 2602 Cobbs Ford Road, Prattville, Alabama 36067; but the
right is reserved to establish other places of business in other
localities in Alabama.

ARTICLE VIII

The period for the duration of the corporation shall be
unlimited and perpetual.

ARTICLE IX

All notes, mortgages or other evidence of debt given by the

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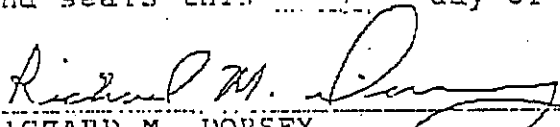
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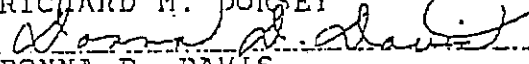
corporation and all deeds, conveyance, releases, or quitclaims shall be signed in the same name of the corporation, by the President and attested by the Secretary.

ARTICLE X

Attached hereto, marked Exhibit "A" and made a part hereof by reference, is a true and correct copy of the subscription list showing the amount of capital stock in the corporation subscribed for by the said incorporator and the manner in which such subscription shall be discharged. Attached hereto, marked Exhibit "B" and made a part hereof, is a statement under oath made by RICHARD M. DORSEY, the officer or agent authorized by the incorporator to receive subscriptions to the capital stock of the corporation, showing the amount of capital stock of the corporation which has been paid in.

IN WITNESS WHEREOF, the undersigned incorporators have hereunto set their hands and seals this 1 day of Oct, 1990.

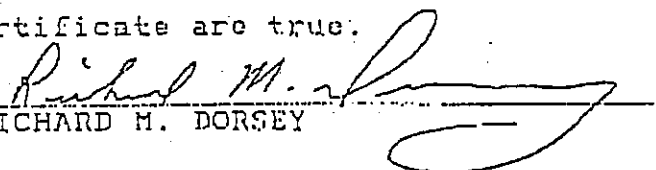

RICHARD M. DORSEY


DONNA D. DAVIS

STATE OF ALABAMA

AUTAUGA COUNTY

Before me, the undersigned authority, a Notary Public in and for said State at Large, personally appeared RICHARD M. DORSEY the incorporator above named, who, on oath, says that the matters stated in the foregoing certificate are true.


RICHARD M. DORSEY

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GIVEN UNDER MY HAND AND SEAL THIS 1 DAY OF October
1990.

Jo Anne Perry
NOTARY PUBLIC

STATE OF ALABAMA

AUTAUGA COUNTY

Before me, the undersigned authority, a Notary Public in and
for said State at Large, personally appeared DONNA D. DAVIS the
incorporator above named, who, on oath, says that the matters
stated in the foregoing certificate are true.

Richard M. Dorsey
RICHARD M. DORSEY

GIVEN UNDER MY HAND AND SEAL THIS 1 DAY OF October
1990.

Jo Anne Perry
NOTARY PUBLIC

This instrument prepared by:
JAW OFFICES OF GEORGE P. WALTHALL, JR.
141 West Main Street
Prattville, Alabama 36067
(205) 365-2255 (Our File No. 90-412.MMO)

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EXHIBIT "A"

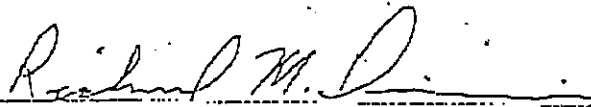
STATE OF ALABAMA

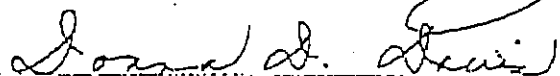
ELMORE COUNTY

SUBSCRIPTION LIST OF
I-65 PROPERTIES, INC.

We, the undersigned, do respectively subscribe for and agree to pay for the number of shares of the common stock of I-65 PROPERTIES, INC., a corporation, proposed to be organized under the law of the State of Alabama, as set below my representative signature hereunder and to pay therefor forthwith upon the organization of said corporation, it being understood and agreed that the shares subscribed for by the undersigned will be paid for in cash in the amount of ONE AND NO/100 DOLLARS for each share of stock hereunder subscribed.

WITNESS my hand and seal this 1 day of October, 1990.


RICHARD M. DORSEY


DONNA D. DAVIS

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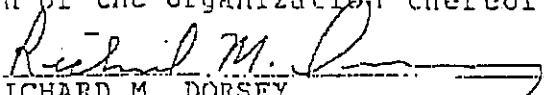
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EXHIBIT "B"

STATE OF ALABAMA
ELMORE COUNTY

Before me, the undersigned authority, a Notary Public in and for said State at Large, personally appeared RICHARD M. DORSEY, who is known to me, and who being by me first duly sworn according to law, deposes and says that he is the Officer/Agent designated and authorized by the incorporator of I-65 PROPERTIES, INC., a corporation, proposed to be incorporated under the laws of the State of Alabama, to receive the subscriptions to the capital stock subscribed for is ONE THOUSAND SHARES of common stock having a par value of ONE AND NO/100 DOLLARS per share, that this certificate is appended to a copy of the Subscription List to a capital stock of said corporation marked Exhibit "A" and made a part hereof by reference; that each of the said incorporators and subscribers to the said capital stock has paid in full amount of his subscription by causing to be delivered to affiant cash in the aggregate net amount of their respective subscriptions for delivery to said corporation upon completion of the organization thereof.


 RICHARD M. DORSEY

SWORN TO AND SUBSCRIBED before me this 1 day of October, 1990.


 NOTARY PUBLIC

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EXHIBIT “5”

By-Laws for I-65 Properties

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BY-LAWS
I-65 PROPERTIES, INC.
A CORPORATION
PRATTVILLE, ALABAMA

ARTICLE I

The President shall preside at all stockholder's and director's meetings. He shall be the Chairman of the Board of Directors. The President may and upon demand of the holders of a majority of the common stock of the corporation, call special meetings of the stockholders or directors. The office of President may be combined with any other office of said corporation.

ARTICLE II

The Vice President shall in the case of the absence or disability of the President, perform the duties of the President. The office of the Vice-President may be combined with any other office of said corporation.

ARTICLE III

The Secretary shall keep the records of the corporation and books of account. She shall have the custody of the seal of the corporation. She shall issue, sign and seal all certificates of stock which certificates must also be signed by the President, and the Secretary shall, in addition, perform all the other duties usually pertaining to his office. The office of Secretary may be combined with any other office of said corporation.

ARTICLE IV

The Treasurer shall have the custody of all monies and securities of the corporation. He shall keep regular books. All monies of the corporation shall be deposited in such depository as

EXHIBIT

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shall be selected, from time to time by the directors. Checks may be signed by any officer or officers of the corporation or by such employee or employees of the corporation as the directors, may, from time to time, designate. In addition, the Treasurer shall perform all duties usually pertaining to his office. The office of Treasurer may be combined with any other office of said corporation.

ARTICLE V

SECTION 1. The business of the corporation shall be managed by the Board of Directors, consisting of not less than one person nor more than seven persons. The President of the corporation shall be the Chairman of the Board of Directors and shall preside over all directors' meetings and the Secretary of the corporation shall be the Secretary of all directors' meetings.

SECTION 2. The general management and government, and direction of affairs of the corporation shall be vested in the Board of Directors, who may establish rules not inconsistent with these By-Laws for the proper regulation and performance of the duties incumbent upon them. They shall take all necessary measures to preserve and protect the property of the corporation, see that all taxes and necessary expenses are paid, and generally, take all legitimate and appropriate measures to carry into force and effect the objects and purposes of the corporation as defined in the Articles of Incorporation and By-Laws.

SECTION 3. Regular meetings of the Board of Directors shall be held at such time and place as the directors may determine. A regular meeting of the Board of Directors shall be held before the

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stockholder's annual meeting on the same day thereof, and immediately after the adjourned meeting of each regular meeting of the stockholders. No notice to directors of such regular meeting shall be required and it shall be the duty of each director to attend same without notice. The majority of the Board of Directors shall constitute a quorum.

SECTION 4. Special meetings of the directors may be called by the President or the holders of a majority of the shares of outstanding common stock upon 10 days notice of such special meetings may be held at any time by unanimous consent of the directors.

SECTION 5. The directors shall be elected immediately upon incorporation and shall hold office until their successors are respectively elected and qualified. Failure to elect officers or directors at any time designated for their election shall not work a dissolution of the corporation. But the several officers or directors thereof shall constitute to hold office until their successors are elected.

SECTION 6. Vacancies on the Board of Directors may be filled by elected by the remaining members of the Board of Directors at any regular or special meeting.

SECTION 7. No director shall receive a salary or other compensation for his service as a director.

ARTICLE VI

SECTION 1. The regular meeting of the stockholders of this corporation shall be held at the general office of the corporation

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in the City of Prattville, Alabama on the first Monday in September of every year.

SECTION 2. Special meetings of the stockholders may be called by the President or the holders of a majority of the shares of outstanding common stock upon ten (10) days notice, mailed to each stockholder at his or her last known address, or such special meetings may be held at any time by unanimous consent. Special meetings shall be held at the same place as regular meetings.

SECTION 3. At all meetings of the stockholders, regular or special, a majority of the stock shall constitute a quorum. A majority of a quorum may decide any questions coming before the meeting.

SECTION 4. At all stockholder's meetings, each holder of stock shall be entitled to one vote for each share of stock held by him or her. Each stockholder may vote either in person or by written proxy.

SECTION 5. The President and Secretary shall act as President and Secretary of each stockholder's meeting unless those at the meeting shall otherwise decide.

ARTICLE VII

The officers of the corporation shall consist of a President, Vice President, Secretary and Treasurer; or if the officers of this corporation so direct, any of the officers of said corporation may be combined.

ARTICLE VIII

The books of the corporation shall be audited once a year at the close of the fiscal year by a disinterested auditor, who shall

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prepare a balance sheet, profit and loss statement and such other statements as may be necessary, which shall be submitted to the first director's meeting following the preparation of the audit and to the stockholders at their annual meeting; the directors are charged with attending to the filing of all necessary State and Federal tax returns and for the same purpose, are authorized and empowered to employ a public accountant or auditor.

ARTICLE IX

The corporation shall have a lien upon each share of stock for any indebtedness due to it from the holder thereof.

ARTICLE X

The Seal of the corporation shall be circular and shall be inscribed as follows: "I-65 PROPERTIES, INC., Prattville, Alabama, Corporate Seal, State of Alabama."

ARTICLE XI

The books, records and accounts of this corporation shall be opened to inspection by all stockholders or any members of the Board of Directors at all times.

ARTICLE XII

SECTION 1. Shares of the capital stock must be transferred upon the books of the corporation, either in person or by attorney by endorsement of the certificate and it surrendered to the Secretary for cancellation, or by the signing of a transfer in a regular transfer book, whereupon a new certificate shall be issued to the regular transferee. The Board of Directors may, by resolution, forbid the transfer of stock for a period of time not exceeding thirty (30) days immediately before a meeting of the

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stockholders or immediately before the time when a dividend is payable.

A. Transfer of stock shall be made only upon the books of the corporation, after compliance, among other things, with the requirements of this Article; and, before a new certificate of stock shall be issued, the older certificate of stock property endorsed, shall be surrendered. Surrendered certificates of stock shall be cancelled and shall be attached to the proper stub in Stock Book. Shares of the capital stock must be transferred upon the books of the corporation, either in person or by attorney, by endorsement of the certificate and it surrendered to the Secretary for cancellation, whereupon a new certificate of stock shall be issued to the regular transferee. The Board of Directors may, by resolution, forbid the transfer of stock for a period of time not to exceed thirty (30) days immediately before a meeting of the stockholders or immediately before a date when a dividend is payable.

B. No shares of stock shall be sold or transferred to a person who is not already a stockholder unless the stock shall be first offered for sale to the stockholders of this corporation, to each of them, in writing; the right to transfer the stock to a person other than stockholder shall not exist until all existing stockholders refuse the offer made as provided above or until receipt of the written offer to accept same by compliance with terms and provisions therein set forth. Regulation as formalities, terms and procedures shall be followed in effecting the transfer in accordance with the By-laws of this corporation.

C. Every such offer shall be in writing and shall state that the offeror offers severally and not jointly to sell all of his shares of stock of the corporation held or owned by him and a copy of such offer signed by the offeror shall be delivered personally, or sent by registered mail to each of the other stockholders who may then be stockholders of the corporation, and a duplicate copy of such offer so signed and delivered and mailed, shall become similarly signed and delivered or mailed to the corporation at its principal place of business; every such offer shall state the number of share desired to be sold, and the offer shall be made, in equal parts, severally, and not jointly to the other stockholders.

D. Each stockholder to whom such offer must be made as herein provided shall have a period of thirty (30) days from the time of mailing or delivery, to him of the said offer, within which to determine whether or not he will accept such offer, so far as it relates to him; and if

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he shall elect to accept the same, such accepting stockholder shall within thirty (30) days so signify, in writing duly signed by him, to the stockholder making the offer and to the corporation; and such original and duplicate acceptance shall be either personally delivered or sent by registered mail, but no stockholder who may accept any such offer made to him shall be affected in respect of his own acceptance, by the failure or refusal or any other stockholder to act.

E. If the offer aforesaid shall be made to the stockholders who number two or more and if one or more, of such stockholders shall signify his or their intention to accept such offer so made to him or them, and if any other of the stockholders aforesaid shall refuse, or fail, to accept the offer so made to him or them, the then accepting stockholder, or stockholders, shall have the right to purchase from the offeror, in equal parts, the shares of the stock remaining unaccepted at the expiration of such period of thirty days, as though, an offer to sell the same was then made by the offeror to such accepting stockholder or stockholders, under the providing paragraph of this Article; and such accepting stockholder, or stockholders, shall act upon the right hereby so granted (hereinafter called the "re-offer"), after the expiration of the said period of thirty (30) days, within the same period of time, and in the same manner, at the expiration of said period of thirty (30) days as though an offer has been made to him, or them, under the providing paragraph of this Article.

F. If an offer made aforesaid, or any re-offer as provided in this Article, shall have been accepted as herein permitted, the shares of stock so accepted for purchase shall be delivered and paid for the accepting stockholder or stockholders, in the manner and at the price hereinafter provided; and no shares of stock of the corporation held or owned by the stockholders shall be transferrable, in any other manner, or to any other persons, firm or corporation until such other stockholder or stockholders, to whom such offer, or offers or re-offer is, or are required to be made as aforesaid, shall have refused in writing, or shall have failed to accept the offer, or offers, or re-offers, therefore, within the period, or periods, above provided.

G. If any of the shares of stock so offered, or re-offered, for purchase, shall not be accepted for purchase as, and within the periods or periods of time above prescribed, such unaccepted shares of stock or offerer shall thereafter be free from the restrictions and provisions of the agreement; provided however, that if any one of the said shares of stock so free from such restrictions and provisions, shall thereafter be

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acquired, held or owned by any of the stockholder, then, and in every such event, each and all of such shares of stock shall thereafter be held, or owned, subject to all and singular, the restrictions, and provisions of this agreement.

11. Upon the death of the stockholder, the other stockholders who may then be stockholders of the corporation shall severally have the right to purchase the shares of stock of the corporation owned or held by the stockholders so deceased, at the time of his death, as though an offer to sell had been made by such stockholder at the time of his death, as hereinabove provided, and such other stockholder or stockholders had accepted such offer as so made. The terms, provisions, and conditions set forth in these By-laws shall with necessary changes and points of detail, apply to, bind, and confirm the personal representative of such deceased stockholder, provided, however that the stockholder or stockholders, purchasing said stock shall be required to purchase said stock within three (3) months from the date that Letters Testamentary or Letters of Administration were issued by the Court wherein the Estate of said decedent is pending.

SECTION 2. The purchase price hereunder of shares of stock of the corporation shall be their value as reflected by an adjusted balance sheet of the corporation, determined from an actual inventory and appraisal of all of the assets of the corporation (both real and personal property), and in accordance with ^{generally} standard accepted accounting principles practices, as of date of the acceptance of such offer by one of the stockholders, or, in the event of the death of a stockholder, as of the date of the death of said stockholder. No allowances shall be made for goodwill.

SECTION 3. Upon being notified as provided for in this Article of any stockholder's offer to sell, or in the event of the death of any stockholder, the corporation shall cause a balance sheet to be prepared in accordance with the provisions of this Article and a copy thereof shall be promptly delivered or sent by

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registered mail, or to the personal representative of a deceased stockholder as the case may be.

SECTION 4. Within ten (10) days after delivery or mailing of a copy of the balance sheet, the selling stockholder shall deliver to the corporation all of his shares of stock offered for sale, duly endorsed in blank, together with his written resignation as an ^{officer}~~officer~~, and/or director of the corporation, together with the like resignation of the corporation, together with the like resignation of any nominee of his who may then be an ^{officer}~~officer~~ and/or director of the corporation. Not later than fourteen (14) days following such date of acceptance by the accepting stockholder, or stockholders, each accepting stockholder shall deliver that purchase price due from him to the corporation, for the account of the offeror, and upon receipt thereof, the corporation shall deliver, forthwith, to the offeror, the purchase price or prices received, and shall deliver to the accepting stockholder who may have paid the said purchase price, the shares ^fof stock therefore.

SECTION 5. If any of the shares of stock so offered for sale, as herein provided, shall not be accepted and paid for within the time or times prescribed therefore, a new certificate of stock or any unaccepted and/or unpaid for shares of stock shall be issued and delivered to the offeror upon the demand of the offeror, made after the date fixed for the acceptance of a re-offer or re-offers as hereinabove provided for.

SECTION 6. The corporation shall not issue stock certificates to a new stockholder, or sell any of its unissued or treasury stock to any person, firm, association, or corporation, unless and until

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such person, firm, association or corporation shall have signed in the Minute Book of the Corporation these By-laws and agreed to the terms and conditions thereof, each of the stockholders, as of the date of the ratification and approval of these By-laws and by signing his name does hereby agreed to all of the terms and provisions of the By-laws and all of the restrictions placed on the stock said corporation.

SECTION 7. All shares of stock issued and delivered to the stockholders shall have written, stamped or printed upon the face the following:

Transferrable only on the Books of the Corporation by the holder hereof in person or by duly authorized Attorney, on surrender of this Certificate *properly* endorsed, and only in accordance with the terms and provisions of the By-Laws of this Corporation.

SECTION 8. All offers, acceptance and notices herein provided for, if given by mail, shall be addressed to the person, firm, association, or corporation to be notified, at their respective addresses appearing on the transfer books of the corporation, at the time the same shall be mailed.

ARTICLE XIII

The By-Laws of the corporation or any part of them may be abridged, altered, added to or repealed by the same body which enacted them at any regular or special meeting of the stockholders of the corporation.

ARTICLE XIV

If there is anything in the foregoing By-Laws inconsistent or in conflict with the Laws of the State of Alabama, or with the Certificate of Incorporation, then it is hereby provided that such

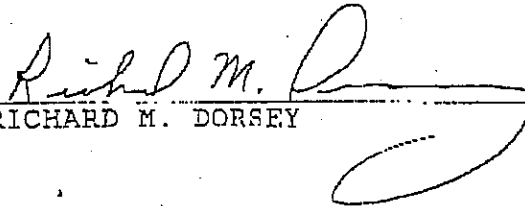
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fact would serve only to invalidate that particular clause or clauses, or provisions as may be so inconsistent and in conflict with the Laws of the State or Certificate of Incorporation and shall not affect or impair in any sense the other sections and provisions of these By-Laws.

The above By-Laws have been approved and confirmed by all of the holders of outstanding stock of the corporation who have hereunto set their hands and seals on this the 1 day of October, 19 90.


RICHARD M. DORSEY

ATTEST TO SIGNATURE


DONNA D. DAVIS

R.M.D.

EXHIBIT “6”

**Certificate of Incorporation for
I-65 Properties**

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State Of Alabama

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County

Certificate Of Incorporation
Of

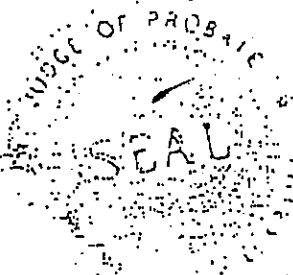
I-65 PROPERTIES, INC.

The undersigned as Judge of Probate of Elmore County, State of Alabama, hereby certifies that duplicate originals of Articles of Incorporation for the incorporation of I-65 Properties, Inc., duly signed pursuant to the provisions of Section 64 of the Alabama Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned as such Judge of Probate, and by virtue of the authority vested in him by law, hereby issues this Certificate of Incorporation of I-65 Properties, Inc., and attaches hereto a duplicate original of the Articles of Incorporation.

GIVEN Under My Hand and Official Seal on this the 9th day of October, 1990.

Edward W. Einslin
Judge of Probate



EXHIBIT

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EXHIBIT “8”

**January 6, 2000 Letter from John Davis
to Alan Taunton**

2056 Glen Eagle Lane
Birmingham, AL 35242
January 6, 2000

Mr. Allen Taunton
Diamond, Roller, Taunton and Carmichael, PA
475 South Hull Street
Montgomery, Alabama 36104

Subject: I-65 Property

Dear Mr. Allen,

I am writing to recap our meeting of December 10, 1999, concerning the disposition of I-65 Properties.

- Present in the meeting were Samuel Diamond, Allen Taunton, Donna Davis, and Jack Davis.
- 2 • The I-65 Property (9.606 Acres, recorded in Plat Book 8, page 73, of the Judge of Probate of Elmore County, Alabama), was originally purchased by Dorsey Motor Sales from Marjorie Virginia Cobb and Dorothy Cobb Jones on February 3, 1987. The purchase price was \$100,000 (\$20,000 cash, plus a \$80,000 note held by Dorsey Motor Sales, Inc., and Dick Dorsey).

It is important to note, at that time, the ownership of Dorsey Motor Sales, Inc. was held, by Richard M. (Dick) Dorsey (40%), Ann M. Dorsey (40%), and Richard T. Dorsey (20%). Is a copy of this original note available?

- 3 • In October 1990, "to avoid possible liabilities, which may be incurred by Dorsey Motor Sales, Inc.", the Property was then sold to I-65 Properties, Inc. (2602 Cobbs Ford Road, Prattville, AL, a Small Business Corporation), for the sum of \$225,000 plus closing costs, or approximately \$228,000. A note for this amount (accumulating 12½ % annual interest) was held by Dorsey Motor Sales, Inc. At that time, the ownership of Dorsey Motor Sales, Inc. remained unchanged from the above percentages. This note should contain the signatures of the stockholders of Dorsey Motor Sales, Inc., to confirm that all its stockholders agreed with the transaction. Do you have documentation of this transaction?

You stated that Dorsey Motor Sales, Inc. paid taxes on the above income. However, any revenue distribution (approximately \$125,000) to principles of Dorsey Motor Sales, Inc. is undefined. My review of the 1990 Tax Returns of Ann M. Dorsey and Richard T. Dorsey, prior to the subpoena of the returns for the Chrysler/Dorsey Motor Sales trial, showed no distributions to these parties, despite their combined 60% ownership in Dorsey Motor Sales. As the tax accountants for Dorsey Motor Sales, Inc., Richard M. Dorsey, and Mr. and Mrs. (Ann M.) Richard T. Dorsey, do you not have records of the distribution on these funds? Will you please furnish Donna with replacement copies of R.T. and A.M. Dorsey's 1990 Tax return.

The ownership of I-65 Properties, Inc., per the Articles of Incorporation filed with the State of Alabama, was 70% by Dick Dorsey (then President & Treasurer) and 30% by Donna D. Davis (Vice President). Fulfilling the Office of Secretary, was Connie S. Dorsey, then wife of Dick Dorsey. Other than an undated copy of the Articles of Incorporation, no other documents of the transaction (the note held by Dorsey Motor Sales, Inc., final executed documents, etc.) were given to Donna Davis. A "First Stockholders Meeting" was held September 25, 1990, without notification to or attendance by Donna Davis, giving Dick Dorsey (Chairman) the power to handle all financial and other matters pertaining to I-65 Properties, Inc.

EXHIBIT

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No monies on the note held by Dorsey Motor Sales, Inc., either on the note itself or maintenance of the Property, has been paid. The sum now owed Dorsey Motor Sales, Inc., amounts to approximately \$282,000. Have you documentation of the amounts spent on maintenance, etc. on the property?

- As you stated, "to avoid future double corporation taxation", on December 11, 1995 Articles of Organization of I-65 Properties, L.L.C. (548 Selma Highway, Prattville, AL) were filed with the State of Alabama, converting I-65 Properties, Inc. to a Limited Liability Corporation. The Initial Members of the L.L.C. are listed as Dick Dorsey and Donna Davis. Neither, an Operating Agreement or statement of the L.L.C. Ownership Participation is included with this filing. Am I to assume that, you have no documentation on this, but it can be requested from the Secretary of State?

Has the original note on I-65 Properties, Inc., held by Dorsey Motor Sales, Inc., has been assigned to I-65 Properties, L.L.C.? Where can a copy of the note be obtained?

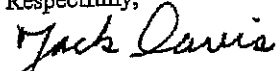
The accounting firm of Diamond, Roller, Taunton, & Carmichael has prepared Tax Returns for I-65 Properties, L.L.C. As part owner of said Property, will you please supply Donna with copies of the returns and work papers?

- Has a formal appraisal been made to determine the value of the Property? Can you supply a copy of the property taxes paid, before and after the Elmore County assessment, which occurred about the time of the transfer from a Corporation to the L.L.C.?
- I understand that during the course of the Chrysler Motors/Dorsey Motor Sales lawsuit, Diamond, Roller, Taunton and Carmichael were required to supply the majority of the financial information sought by Chrysler, and that Diamond, Roller, Taunton and Carmichael were allowed to retain copies of this information. Can you supply Donna with that information, pertaining to the I-65 Property?
- Mr. Richard T. Dorsey died on January 26, 1996, potentially changing the ownership of Dorsey Motor Sales. Subsequent actions by Dick Dorsey, having been contested by Ann M. Dorsey and her Conservator and not fully resolved by the Courts, gave full ownership of Dorsey Motor Sales, Inc. (and therefore, the note held on I-65 Properties, L.L.C.) to Dick Dorsey.

With this change of ownership, can it now be presumed that Dick Dorsey, as owner of Dorsey Motor Sales, Inc., can foreclose on the note held on I-65 Properties, L.L.C., owned by Dick Dorsey and Donna Dorsey Davis? It seems unjust that the heritage (Ownership in I-65 Properties) set up by Donna Davis' father, Richard T. Dorsey, can later be taken away from her.

Again, thank you and Mr. Diamond for your assistance. Donna and I will continue to pursue an equitable solution to this dilemma.

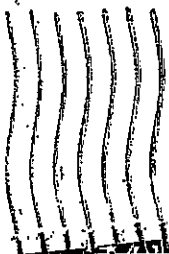
Respectfully,



John H. Davis, Jr. (Spouse)

2056 Glen Eagle Lane
Birmingham, AL 25242

Mr. Allen Taunton
Diamond, Roller, Taunton and Carmichael, PA
475 South Hull Street
Montgomery, Alabama 36104



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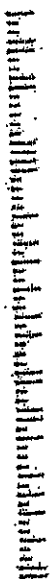


EXHIBIT “9”

**February 17, 2000 Correspondence from
Alan Taunton to John Davis**

Diamond, Roller, Taunton and Carmichael

Certified Public Accountants * A Professional Association
200 Executive Park Drive
P. O. Box 780248
Tallahassee, Alabama 36078
Telephone (334) 283-2567 Fax (334) 283-6900
Email drtc-tal@tallassee.net

Sam I. Diamond, Jr., C.P.A.
Thomas Roller, C.P.A.
J. Alan Taunton, C.P.A.
James D. Carmichael, C.P.A.
James J. Gary III, C.P.A.

Montgomery Office
475 South Hull Street
Montgomery, Alabama 36042
(334) 834-7720
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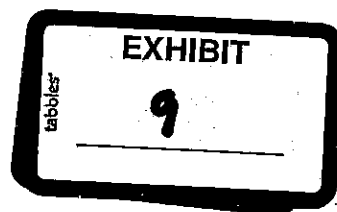
Tasha Patterson, C.P.A.
Christopher D. Haynes, C.P.A.
Jeannie G. Price, C.P.A.

February 17, 2000

Mr. John H. Davis, Jr.
2056 Eagle Lane
Birmingham, AL 35242

RE: Letter dated January 6, 2000

Personal and Confidential



Dear John,

I apologize for not responding earlier to your letter, but I have been extremely busy and your letter got covered up on my desk.

Bullet 2: Questions about Cobb Sisters Note:

The purchase price was \$100,000. The purchaser was Dorsey Motor Sales, Inc. (DMS). There was an \$80,000 note from DMS to the Cobb sisters. This note was eventually paid off by DMS in annual increments of \$20,000 plus interest. We may have a copy of the original note to the sisters by Dorsey Motor Sales, Inc. We are not aware of any guarantee by Dick, although there may have been, or his individually having been a party to the note.

The ownership percentages referenced by your letter are in accordance with our records.

Bullet 3: Questions about I-65 Properties, Inc. Note:

We do have a copy of this note. The note is dated October 1, 1990 and is signed by Richard M. Dorsey as president of I-65 Properties, Inc. The payee of a note does not sign the note, therefore, no signatures of DMS officers appear on the note.

This transaction was a defensive maneuver designed to protect the property from possible seizure in the event a judgement was ever rendered against DMS.

The sale was reported by DMS on its tax return.

There was no distribution of proceeds by DMS because no cash was collected from I-65. DMS did report a taxable gain from the sale even though no cash was collected.

We do have a copy of the 1990 tax return for R. T. and Ann Dorsey. Because Mrs. Dorsey now has an executor handling her affairs, we kindly request that you make the request for a copy through Mr. Faulk. We will gladly furnish a copy, but must respect the rules of confidentiality.

Mr. John H. Davis
Inquiries related to I-65 Properties, Inc. and LLC
Page 2 of 3

The ownership percentages and officers of I-65 Properties, Inc. agrees with our records. Our files include a copy of the By Laws executed on October 1, 1990 and signed by Richard M. Dorsey and attested to by Donna D. Davis.

The copy of the Articles of Incorporation in our file were signed by both Richard M. Dorsey and Donna D. Davis.

Our files also include a copy of the First Stockholders Meeting held October 1, 1990, indicating both Richard M. Dorsey and Donna D. Davis were in attendance. Your record indicating the meeting was held on September 25, 1990 is not in agreement with our copies of signed minutes.

As to documentation of amounts expended by DMS on the I-65 Property, we have no details as to this matter. I have not inquired of DMS as to the extent of its documentation or as to whom the expenditures were made.

Bullet 4: Documentation on formation of LLC:

The records I have are incomplete. The LLC articles of organization were prepared and a federal ID number was obtained. I have no record of an operating agreement ever having been prepared.

Your statement that the corporation was converted to the LLC is not correct. The formation of the LLC created a new legal entity. The old I-65, Inc. continued to exist and to my knowledge still exists. Our records do indicate a 70% (Dick) 30% (Donna) ownership ratio of the LLC.

I have seen no records indicating an assumption of the note on the property by the LLC. I am enclosing a copy of the note from I-65 Properties, Inc to DMS

I am enclosing a copy of the LLC tax returns as filed.

Bullet 5: Formal Appraisal:

I have no knowledge of an independent appraisal. There may have been an appraisal several years back, but I did not find a copy in our file. I have not located in our files a copy of the county's appraisal at the time the property was transferred to I-65, Inc. There was a notice of appraised value by the county in the files of DMS. This document can also be obtained from the county tax assessor's office.

Bullet 6: Information supplied to Chrysler relative to the DMS lawsuit:

Our firm did participate in numerous meetings during the course of this litigation. Our records were also subpoenaed. I do not remember supplying anything except what they obtained by subpoena. We have no record of what they copied once they had possession of the records. We did not copy anything for Chrysler. I do not remember ever being asked to provide any records or documents related to I-65 Properties, Inc. or LLC and to my recollection, no documents of I-65 were supplied.

Mr. John H. Davis

Inquiries related to I-65 Properties, Inc. and LLC

Page 3 of 3

Bullet 7: Rights of DMS to foreclose on I-65 Properties note:

This is a legal question and I am not an attorney. I cannot offer an opinion as to this matter.

I hope this information will be sufficient. If I can assist you any further, please let me know.

Yours truly,



J. Alan Taunton
Certified Public Accountant

Enclosures

EXHIBIT “10”

**April 5, 2000 Letter from Richard Dorsey
to Donna Davis**

I-65 PROPERTIES, INC.

548 Selma Hwy Prattville, AL 36067



April 5, 2000

Mrs. Donna Davis
2056 Glen Eagle Lane
Birmingham, Alabama 35242

RE: March 6th, 2000 Meeting

Dear Donna:

I have received a letter from Jack concerning additional documents on I-65 Properties, Inc. I trust that this request was made on your behalf since you are the Shareholder and an Officer. I am providing the information to you and you can share with Jack whatever you deem appropriate.

The first issue that I will address are the financial records. I have provided the accountant with all the documents that I have concerning I-65 Properties, Inc. from its inception to date. I have been informed that these are being summarized on a year by year basis. Once I have received that information, I will forward what I receive to you. I think this will address all inquiries that you made concerning financial matters. I am unclear as to what information you are seeking concerning who the benefactor of the promissory note from I-65 Properties, Inc. was. As you can see from looking at the note it was made payable to Dorsey Motor Sales, Inc.

I have also enclosed new copies of the Articles of Incorporation, By-Laws, etc. You received a copy of these at the time that you signed them yet if you cannot locate your copies, I certainly have no objection to providing you with new copies.

You make reference to mortgage financing being obtained from a commercial institution. I have absolutely no objection to that and would encourage you to make any inquiries which you deem appropriate to see if there is any interest by a commercial institution in providing the mortgage financing. I am at a loss as to your rationalization that there now exists a conflict of interest. This note was executed in 1990 and has not been modified in any way since that time. I was President of Dorsey Motor Sales, Inc. in 1990 and was also President of I-65 Properties, Inc. in 1990. Presently, I continue to serve as President of both corporations. I hope you realize that my holding these two (2) positions has certainly not been to your detriment but very much to your benefit. Had any third party commercial institution

EXHIBIT

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Mrs. Donna Dorsey
April 5, 2000
Page 2

provided the financing for I-65 Properties, Inc. to obtain this property, which also bestowed upon you a 30% interest that you previously did not have, then I can also assure you that likewise payments on some regular basis would have been demanded.

I have also enclosed a copy of the survey and topographical information which I told Jack that I would gather in addition to the other documents which I have mentioned above.

I hope this answers the questions presented. However if you have any additional inquiries, please let me know.

Sincerely,

Dick Dorsey
Pres, I-65 Properties, Inc.

DD/bjm

Enclosures.

1. Articles of Incorporation
2. By-Laws
3. Survey
4. Topographical Survey

EXHIBIT “11”

Affidavit of Alan Taunton

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DONNA DORSEY DAVIS,
as an individual and derivatively upon
behalf of I-65 Properties, Inc.,

Plaintiff,

vs.

RICHARD M. DORSEY, as an individual
and CD&O, LLC, as a necessary party,

Defendants.


Case No. 2:06-cv-766-MHT

Affidavit of J. Alan Taunton

1. My name is J. Alan Taunton. I am a Certified Public Accountant with Diamond, Roller, Taunton and Carmichael. I have personal knowledge of the matters set forth herein.

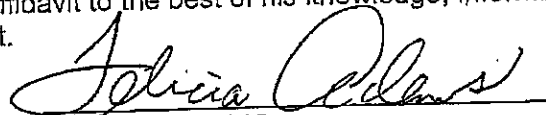
2. I have performed tax and accounting work for Richard Dorsey and I-65 Properties, Inc. since approximately 1976.

3. The correspondence attached to this affidavit were received by me or forwarded by me as part of the work I performed for I-65 Properties, Inc. I communicated with the John Davis through this correspondence.


J. Alan Taunton

STATE OF ALABAMA)
COUNTY OF Elmore)

Before me the undersigned Notary Public in and for State and County aforesaid, personally appeared J. Alan Taunton, who is personally known to me and who, being by me first duly sworn, doth depose and say that he signed the above affidavit to the best of his knowledge, information and belief and with full understanding of its effect.


NOTARY PUBLIC
My Commission Expires: 8/20/09

(SEAL)



16173

2056 Glen Eagle Lane
Birmingham, AL 35242
January 6, 2000

Mr. Allen Taunton
Diamond, Roller, Taunton and Carmichael, PA
475 South Hull Street
Montgomery, Alabama 36104

Subject: I-65 Property

Dear Mr. Allen,

I am writing to recap our meeting of December 10, 1999, concerning the disposition of I-65 Properties.

- 1 • Present in the meeting were Samuel Diamond, Allen Taunton, Donna Davis, and Jack Davis.
- 2 • The I-65 Property (9.606 Acres, recorded in Plat Book 8, page 73, of the Judge of Probate of Elmore County, Alabama), was originally purchased by Dorsey Motor Sales from Marjorie Virginia Cobb and Dorothy Cobb Jones on February 3, 1987. The purchase price was \$100,000 (\$20,000 cash, plus a \$80,000 note held by Dorsey Motor Sales, Inc., and Dick Dorsey).

It is important to note, at that time, the ownership of Dorsey Motor Sales, Inc. was held, by Richard M. (Dick) Dorsey (40%), Ann M. Dorsey (40%), and Richard T. Dorsey (20%). Is a copy of this original note available?

- 3 • In October 1990, "to avoid possible liabilities, which may be incurred by Dorsey Motor Sales, Inc.", the Property was then sold to I-65 Properties, Inc. (2602 Cobbs Ford Road, Prattville, AL, a Small Business Corporation), for the sum of \$225,000 plus closing costs, or approximately \$228,000. A note for this amount (accumulating 12½ % annual interest) was held by Dorsey Motor Sales, Inc. At that time, the ownership of Dorsey Motor Sales, Inc. remained unchanged from the above percentages. This note should contain the signatures of the stockholders of Dorsey Motor Sales, Inc., to confirm that all its stockholders agreed with the transaction. Do you have documentation of this transaction?

You stated that Dorsey Motor Sales, Inc. paid taxes on the above income. However, any revenue distribution (approximately \$125,000) to principles of Dorsey Motor Sales, Inc. is undefined. My review of the 1990 Tax Returns of Ann M. Dorsey and Richard T. Dorsey, prior to the subpoena of the returns for the Chrysler/Dorsey Motor Sales trial, showed no distributions to these parties, despite their combined 60% ownership in Dorsey Motor Sales. As the tax accountants for Dorsey Motor Sales, Inc., Richard M. Dorsey, and Mr. and Mrs. (Ann M.) Richard T. Dorsey, do you not have records of the distribution on these funds? Will you please furnish Donna with replacement copies of R.T. and A.M. Dorsey's 1990 Tax return.

The ownership of I-65 Properties, Inc., per the Articles of Incorporation, filed with the State of Alabama, was 70% by Dick Dorsey (then President & Treasurer) and 30% by Donna D. Davis (Vice President). Fulfilling the Office of Secretary, was Connie S. Dorsey, then wife of Dick Dorsey. Other than an undated copy of the Articles of Incorporation, no other documents of the transaction (the note held by Dorsey Motor Sales, Inc., final executed documents, etc.) were given to Donna Davis. A "First Stockholders Meeting" was held September 25, 1990, without notification to or attendance by Donna Davis, giving Dick Dorsey (Chairman) the power to handle all financial and other matters pertaining to I-65 Properties, Inc.

EXHIBIT

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No monies on the note held by Dorsey Motor Sales, Inc., either on the note itself or maintenance of the Property, has been paid. The sum now owed Dorsey Motor Sales, Inc., amounts to approximately \$282,000. Have you documentation of the amounts spent on maintenance, etc. on the property?

- As you stated, "to avoid future double corporation taxation", on December 11, 1995 Articles of Organization of I-65 Properties, L.L.C. (548 Selma Highway, Prattville, AL) were filed with the State of Alabama, converting I-65 Properties, Inc. to a Limited Liability Corporation. The Initial Members of the L.L.C. are listed as Dick Dorsey and Donna Davis. Neither, an Operating Agreement or statement of the L.L.C. Ownership Participation is included with this filing. Am I to assume that, you have no documentation on this, but it can be requested from the Secretary of State?

Has the original note on I-65 Properties, Inc., held by Dorsey Motor Sales, Inc., has been assigned to I-65 Properties, L.L.C.? Where can a copy of the note be obtained?

The accounting firm of Diamond, Roller, Taunton, & Carmichael has prepared Tax Returns for I-65 Properties, L.L.C. As part owner of said Property, will you please supply Donna with copies of the returns and work papers?

- Has a formal appraisal been made to determine the value of the Property? Can you supply a copy of the property taxes paid, before and after the Elmore County assessment, which occurred about the time of the transfer from a Corporation to the L.L.C.?
- I understand that during the course of the Chrysler Motors/Dorsey Motor Sales lawsuit, Diamond, Roller, Taunton and Carmichael were required to supply the majority of the financial information sought by Chrysler, and that Diamond, Roller, Taunton and Carmichael were allowed to retain copies of this information. Can you supply Donna with that information, pertaining to the I-65 Property?
- Mr. Richard T. Dorsey died on January 26, 1996, potentially changing the ownership of Dorsey Motor Sales. Subsequent actions by Dick Dorsey, having been contested by Ann M. Dorsey and her Conservator and not fully resolved by the Courts, gave full ownership of Dorsey Motor Sales, Inc. (and therefore, the note held on I-65 Properties, L.L.C.) to Dick Dorsey.

With this change of ownership, can it is now be presumed that Dick Dorsey, as owner of Dorsey Motor Sales, Inc., can foreclose on the note held on I-65 Properties, L.L.C., owned by Dick Dorsey and Donna Dorsey Davis? It seems unjust that the heritage (Ownership in I-65 Properties) set up by Donna Davis' father, Richard T. Dorsey, can later be taken away from her.

Again, thank you and Mr. Diamond for you assistance. Donna and I will continue to pursue an equitable solution to this dilemma.

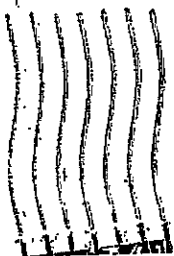
Respectfully,

John H. Davis, Jr.

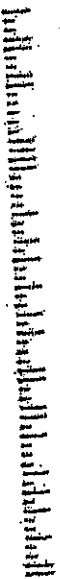
John H. Davis, Jr. (Spouse)

2056 Glen Eagle Lane
Birmingham, AL 25242

Mr. Allen Taunton
Diamond, Roller, Taunton and Carmichael, PA
475 South Hull Street
Montgomery, Alabama 36104



36104X4213 33



Rec'd 3-7-00

Diamond, Roller, Taunton and Carmichael

Certified Public Accountants * A Professional Association
200 Executive Park Drive
P. O. Box 780248
Tallahassee, Alabama 36078
Telephone (334) 283-2567 Fax (334) 283-6900
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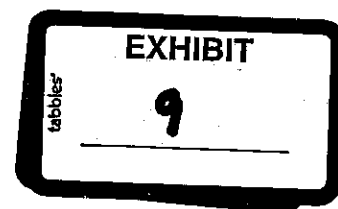
Montgomery Office
475 South Hull Street
Montgomery, Alabama 36042
(334) 834-7720
Members
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Alabama Society of CPA's

February 17, 2000

Mr. John H. Davis, Jr.
2056 Eagle Lane
Birmingham, AL 35242

RE: Letter dated January 6, 2000

Personal and Confidential



Dear John,

I apologize for not responding earlier to your letter, but I have been extremely busy and your letter got covered up on my desk.

Bullet 2: Questions about Cobb Sisters Note:

The purchase price was \$100,000. The purchaser was Dorsey Motor Sales, Inc. (DMS). There was an \$80,000 note from DMS to the Cobb sisters. This note was eventually paid off by DMS in annual increments of \$20,000 plus interest. We may have a copy of the original note to the sisters by Dorsey Motor Sales, Inc. We are not aware of any guarantee by Dick, although there may have been, or his individually having been a party to the note.

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This transaction was a defensive maneuver designed to protect the property from possible seizure in the event a judgement was ever rendered against DMS.

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There was no distribution of proceeds by DMS because no cash was collected from I-65. DMS did report a taxable gain from the sale even though no cash was collected.

We do have a copy of the 1990 tax return for R. T. and Ann Dorsey. Because Mrs. Dorsey now has an executor handling her affairs, we kindly request that you make the request for a copy through Mr. Faulk. We will gladly furnish a copy, but must respect the rules of confidentiality.

Mr. John H. Davis
Inquiries related to I-65 Properties, Inc. and LLC
Page 2 of 3

The ownership percentages and officers of I-65 Properties, Inc. agrees with our records. Our files include a copy of the By Laws executed on October 1, 1990 and signed by Richard M. Dorsey and attested to by Donna D. Davis.

The copy of the Articles of Incorporation in our file were signed by both Richard M. Dorsey and Donna D. Davis.

Our files also include a copy of the First Stockholders Meeting held October 1, 1990, indicating both Richard M. Dorsey and Donna D. Davis were in attendance. Your record indicating the meeting was held on September 25, 1990 is not in agreement with our copies of signed minutes.

As to documentation of amounts expended by DMS on the I-65 Property, we have no details as to this matter. I have not inquired of DMS as to the extent of its documentation or as to whom the expenditures were made.

Bullet 4: Documentation on formation of LLC:

The records I have are incomplete. The LLC articles of organization were prepared and a federal ID number was obtained. I have no record of an operating agreement ever having been prepared.

Your statement that the corporation was converted to the LLC is not correct. The formation of the LLC created a new legal entity. The old I-65, Inc. continued to exist and to my knowledge still exists. Our records do indicate a 70% (Dick) 30% (Donna) ownership ratio of the LLC.

I have seen no records indicating an assumption of the note on the property by the LLC. I am enclosing a copy of the note from I-65 Properties, Inc to DMS

I am enclosing a copy of the LLC tax returns as filed.

Bullet 5: Formal Appraisal:

I have no knowledge of an independent appraisal. There may have been an appraisal several years back, but I did not find a copy in our file. I have not located in our files a copy of the county's appraisal at the time the property was transferred to I-65, Inc. There was a notice of appraised value by the county in the files of DMS. This document can also be obtained from the county tax assessor's office.

Bullet 6: Information supplied to Chrysler relative to the DMS lawsuit:

Our firm did participate in numerous meetings during the course of this litigation. Our records were also subpoenaed. I do not remember supplying anything except what they obtained by subpoena. We have no record of what they copied once they had possession of the records. We did not copy anything for Chrysler. I do not remember ever being asked to provide any records or documents related to I-65 Properties, Inc. or LLC and to my recollection, no documents of I-65 were supplied.

Mr. John H. Davis

Inquiries related to I-65 Properties, Inc. and LLC
Page 3 of 3

Bullet 7: Rights of DMS to foreclose on I-65 Properties note:

This is a legal question and I am not an attorney. I cannot offer an opinion as to this matter.

I hope this information will be sufficient. If I can assist you any further, please let me know.

Yours truly,



J. Alan Taunton
Certified Public Accountant

Enclosures

Diamond, Roller, Taunton and Carmichael

Certified Public Accountants * A Professional Association
200 Executive Park Drive
P. O. Box 780248
Tallahassee, Alabama 36078

Telephone (334) 283-2567 Fax (334) 283-6900
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Tasha Patterson, C.P.A.

Paula J. Duke, C.P.A.

Montgomery Office
475 South Hull Street
Montgomery, Alabama 36104
(334) 834-7720

Members
American Institute of CPA's
Alabama Society of CPA's

October 28, 2003

Donna D. Davis
2056 Glen Eagle Lane
Birmingham, AL 35242

RE: Documents Requested

Personal and Confidential

Dear Donna,

Dick called me yesterday afternoon and requested that I send you the information in John's letter of October 22, 2003.

Enclosed please find the following:

I-65 Properties, Inc. Income Tax Returns

Federal and state returns for 1998.
Federal and state returns for 1999.
Federal and state returns for 2000.
Federal and state returns for 2001.
Federal and state returns for 2002.

These are complete returns for each year just as they were filed.

Please note that on all of these returns there is no income reported and no expenses deducted. The lack of income is because there has been no income earned by the corporation. There have been expenses incurred, but these have been recorded as Deferred Expenses to be deducted whenever income is derived from the sale of the property.

I-65 Properties, LLC Income Tax Returns

A copy of my letter of March 20, 2000, a copy of which was previously sent to you by me.
Federal and state returns for 1999 marked final.
Federal and state returns for 1998.

These are complete returns for each year. From John's letter it appears that you did receive a copy of the 1999 returns previously. This would be in accordance with my letter of March 20, 2000 also. To my knowledge no returns have been filed for this LLC since the 1999 returns. If you need any additional



Page 2 of 2

information concerning these please let me know. If your CPA needs to discuss these returns with me please have him give me a call.

You should have no tax liabilities from any of the above returns.

Thanks,

Yours truly,

J. Alan Taunton
Certified Public Accountant

Diamond, Roller, Taunton and Carmichael

Certified Public Accountants * A Professional Association
200 Executive Park Drive
P. O. Box 780248
Tallahassee, Alabama 36078

Telephone (334) 283-2567 Fax (334) 283-6900
Email: alantaunton@drtecpa.com

Sam I. Diamond, Jr., C.P.A.
Thomas Roller, C.P.A.
J. Alan Taunton, C.P.A.
James D. Carmichael, C.P.A.
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Tasha Patterson, C.P.A.

Montgomery Office
475 South Hull Street
Montgomery, Alabama 36104
(334) 834-7720

Members
American Institute of CPA's
Alabama Society of CPA's

March 18, 2006

Via: US mail

Lindsey B. Erwin
Attorney at Law
101 Bristol Lane
Birmingham, AL 36078

RE: I-65 Properties, Inc.

Dear Ms Erwin,

The sale from Dorsey Motor Sales, Inc. to I-65 Properties, Inc. took place on October 1, 1990. A closing statement, Warranty Deed recorded on October 3, 1990, and a Promissory Note dated October 1, 1990 are enclosed.

I was working with both Mr. Richard T. Dorsey and Mr. Richard M. Dorsey at the time this property sale took place and am not aware of any intent for this transaction to be anything other than a sale. There was never any discussion of there being any intent for causing the corporation to "gift" the property. Had there been a gift of the property, each shareholder would have been required to report the "benefit derived" as a taxable dividend on their respective tax returns.

As to the timing of the note please see the closing statement prepared by Mr. George P. Walthall, Jr. Esq. It shows the assumption of a mortgage in the amount of \$21,800.00 and a Promissory Note in the amount of \$228,200.00. This closing statement was signed by Mr. Walthall on 1 Oct 1990. In addition, Mr. Walthall prepared the Promissory Note. Mr. Walthall also prepared the Articles of Incorporation for I-65 Properties, Inc. on the same date.

The consideration for the Promissory note was a Warranty Deed for the real estate.

As I recall, a law suit had been filed or was threatened at the time the sale took place and the sale was believed to be in the best interest of the stockholder's.

The sale price was based on an appraisal prepared prior to the time of sale. The appraisal was made to insure that the stockholder's purchased the property from the corporation at "fair market value" and avoid any issues with the IRS or the courts in the event the law suite results were unfavorable.

Thanks,

Yours truly,

J. Alan Taunton, CPA

Integrity - Confidentiality - Competence "The Cornerstones of Our Firm"

EXHIBIT

tabbles

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EXHIBIT “12”

**Unsigned Copy of October 28, 2003
letter from Alan Taunton to John Davis**

Diamond, Roller, Taunton and Carmichael

Certified Public Accountants * A Professional Association
200 Executive Park Drive
P. O. Box 780248
Tallahassee, Alabama 36078

Telephone (334) 283-2567 Fax (334) 283-6900
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October 28, 2003

Donna D. Davis
2056 Glen Eagle Lane
Birmingham, AL 35242

RE: Documents Requested

Personal and Confidential

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I-65 Properties, LLC Income Tax Returns

- A copy of my letter of March 20, 2000, a copy of which was previously sent to you by me.
- Federal and state returns for 1999 marked final.
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information concerning these please let me know. If your CPA needs to discuss these returns with me please have him give me a call.

You should have no tax liabilities from any of the above returns.

Thanks,

Yours truly,

J. Alan Taunton
Certified Public Accountant

EXHIBIT “13”

**March 18, 2006 Letter from Alan Taunton
to Lindsey Erwin**

Diamond, Roller, Taunton and Carmichael

Certified Public Accountants * A Professional Association
200 Executive Park Drive
P. O. Box 780248
Tallahassee, Alabama 36078

Telephone (334) 283-2567 Fax (334) 283-6900
Email: alantaunton@drtcpa.com

Sam I. Diamond, Jr., C.P.A.
Thomas Roller, C.P.A.
J. Alan Taunton, C.P.A.
James D. Carmichael, C.P.A.
James J. Gary III, C.P.A.
Tasha Patterson, C.P.A.

Montgomery Office
475 South Hull Street
Montgomery, Alabama 36104
(334) 834-7720

Members
American Institute of CPA's
Alabama Society of CPA's

March 18, 2006

Via: US mail

Lindsey B. Erwin
Attorney at Law
101 Bristol Lane
Birmingham, AL 36078

RE: I-65 Properties, Inc.

Dear Ms Erwin,

The sale from Dorsey Motor Sales, Inc. to I-65 Properties, Inc. took place on October 1, 1990. A closing statement, Warranty Deed recorded on October 3, 1990, and a Promissory Note dated October 1, 1990 are enclosed.

I was working with both Mr. Richard T. Dorsey and Mr. Richard M. Dorsey at the time this property sale took place and am not aware of any intent for this transaction to be anything other than a sale. There was never any discussion of there being any intent for causing the corporation to "gift" the property. Had there been a gift of the property, each shareholder would have been required to report the "benefit derived" as a taxable dividend on their respective tax returns.

As to the timing of the note please see the closing statement prepared by Mr. George P. Walthall, Jr. Esq. It shows the assumption of a mortgage in the amount of \$21,800.00 and a Promissory Note in the amount of \$228,200.00. This closing statement was signed by Mr. Walthall on 1 Oct 1990. In addition, Mr. Walthall prepared the Promissory Note. Mr. Walthall also prepared the Articles of Incorporation for I-65 Properties, Inc. on the same date.

The consideration for the Promissory note was a Warranty Deed for the real estate.

As I recall, a law suit had been filed or was threatened at the time the sale took place and the sale was believed to be in the best interest of the stockholder's.

The sale price was based on an appraisal prepared prior to the time of sale. The appraisal was made to insure that the stockholder's purchased the property from the corporation at "fair market value" and avoid any issues with the IRS or the courts in the event the law suite results were unfavorable.

Thanks,

Yours truly,

J. Alan Taunton, CPA

Integrity - Confidentiality - Competence "The Cornerstones of Our Firm"

EXHIBIT

tabbles

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EXHIBIT “14”

Affidavit of Richard M. Dorsey

STATE OF ALABAMA

COUNTY OF AUTAUGA

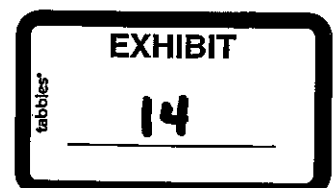
AFFIDAVIT OF RICHARD M. DORSEY

Before me, the undersigned authority in and for said County and State, personally appeared Richard M. Dorsey, who is known to me and who being first duly sworn, deposes and says:

"I make this affidavit based upon my own personal knowledge. I am a Defendant in this case and a shareholder in I-65 Properties, Inc. I-65 Properties, Inc. consists of undeveloped real estate located in Elmore County, Alabama. This is real estate my father and I purchased as an alternative to expand our automobile business. At my father's direction, this property was transferred into I-65 Properties, Inc. with my holding 70% of the stock and my sister Donna holding 30% of the stock. We are the only two (2) stockholders of I-65 Properties, Inc. I-65 Properties, Inc. assumed the mortgage on the property as part of the purchase price.

For many years, I-65 Properties, Inc. had no income and within the last few years I have been successful in leasing billboard space on this property. This is the only income the corporation has. Throughout all these years I have personally or through companies which I own made all payments on behalf of the corporation including the mortgage payments to the prior owners of the property, tax payments, insurance payments, accounting expenses and any other costs associated with the corporation. My sister has incurred no expense on behalf of the corporation.

I have provided my sister, either directly or indirectly, with copies of income tax returns prepared by Diamond, Roller, Taunton & Carmichael, P. A. I have also instructed Alan Taunton with Diamond, Roller, Taunton & Carmichael, P. A. to meet with my sister or her attorney and

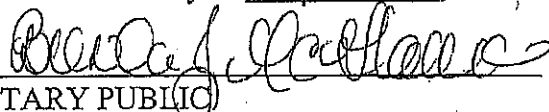


make all books and records of I-65 Properties, Inc. available to them. It is my understanding that they have not availed themselves of this offer."

Further affiant sayeth not.


RICHARD M. DORSEY

SWORN TO and SUBSCRIBED before me this the day of 18th September, 2006.


NOTARY PUBLIC

My Commission Expires: 9/17/2007

EXHIBIT “15”

Compilation of Expenses Owed

WASLEY MORGAN SAYS BUENATE PROPERTY
 THEY DID TRANSFER TO BROTHER CAMP
 YOU ARE GIVING US PART
 OF OUR 3 DICK FORMED I-65 PROPERTIES
 1998 ok 89
 PICK GOT DEEDSHEAT ACCORDING TO HIM WHEN I-65 PROPERTIES
 WAS FORMED
 (VERBAL AGREEMENT WITH DAD)
 (PROPERTY HAD BEEN MISSED AMT.?)
 AS TOOK A NOTE FROM I-65 INC.
 NOTE FROM BACK FOR THAT AMT.
 BECAUSE OF LITIGATION NOT IN A FIVE YEAR

I-65	PROPERTIES EXPENSES	DATE	LOANS	AMOUNT
1990				
17-Dec	Alabama Dept of Revenue	13-Nov	Dorsey Motors	\$ 4,000.00
28-Dec	Bob Gray	13-Nov	Dorsey Motors	\$ 1,000.00
				\$ 5,000.00
1991				
10-Jan	Ralph Bennett			\$ 2,700.00
7-Feb	Carmichael & Carmichael			\$ 1,250.00
17-Mar	Alabama Dept of Revenue			\$ 70.00
11-Jun	Carmichael & Carmichael			\$ 500.00
3-Jul	Ralph Bennett	29-Jul	Dorsey Motors	\$ 3,000.00
9-Sep	Benair Helicopters			\$ 95.00
17-Sep	U S Postmaster			\$ 49.00
22-Nov	Southern Survey & Design			\$ 1,000.00
22-Nov	Goodwin Mills and Cawood	22-Nov	Dorsey Motors	\$ 2,000.00
	Regions Bank			\$ 78.05
				\$ 9,742.05
1992				
29-Jan	Ralph Bennett			\$ 6,800.00
22-Jan	Southern Survey and Design	22-Jan	Dorsey Motors	\$ 600.00
13-Mar	Alabama Dept of Revenue	29-Jan	Dorsey Motors	\$ 7,000.00
20-May	Southern Survey and Design	20-May	Dorsey Motors	\$ 1,000.00
22-Sep	U S Postmaster	15-Oct	Dorsey Motors	\$ 1,000.00
14-Oct	Goodwyn Mills and Cawood			
9-Nov	Wm "Mike" Harper			\$ 535.44
	Regions Bank	31-Dec	Dorsey Motors	\$ 600.00
				\$ 10,200.19

EXHIBIT

15

X (1992 MISSING ON LIST)

THESE SIX (6) PAGES

GIVEN AT DEC 19, 2005

STANLEY NEEDS A FIVE YEAR - 1/6

C

1996	Crumpton and Davis	Millbrook Sewer	\$ 783.75	11-Jan	Dorsey Motors	\$ 800.00
11-Jan	Alabama Department of Revenue	96 Franchise Tax	\$ 70.00			
12-Mar	Alabama Department of Revenue	Tax Penalty	\$ 50.00			
22-Aug	Alabama Department of Revenue	K Bar K Legal	\$ 2,000.00	21-Oct	Dorsey Motors	\$ 2,000.00
21-Oct	McDowell, Faulk & McDowell	96 Property Tax	\$ 835.20	18-Dec	Dorsey Motors	\$ 1,000.00
16-Dec	Wm M "Mike" Harper	Service Charges	\$ 88.25			
	Regions Bank		\$ 3,827.20			\$ 3,800.00
1997						
12-Mar	Alabama Department of Revenue	97 Franchise Tax	\$ 70.00			
17-Sep	U S Postmaster	P O Box Rent	\$ 58.00			
	Regions Bank	Service Charges	\$ 104.77			
			\$ 232.77			
1998						
17-Sep	U S Postmaster	P O Box Rent	\$ 58.00	17-Sep	Dorsey Motors	\$ 100.00
14-Dec	Wm M. "Mike" Harper	U S Postmaster	\$ 1,009.20	14-Dec	Dorsey Motors	\$ 1,000.00
	Regions Bank	Service Charges	\$ 117.29			
			\$ 1,184.49			\$ 1,100.00
1999						
4-Jan	Alabama Dept Of Transportation	Billboard Permit	\$ 25.00	4-Jan	Dorsey Motors	\$ 100.00
4-Jan	Alabama Dept Of Transportation	Billboard Permit	\$ 25.00			
10-Mar	Department of Revenue	99 Franchise Tax	\$ 70.00	10-Mar	Dorsey Motors	\$ 100.00
27-Sep	U S Postmaster	P O Box Rent	\$ 64.80	27-Sep	Dorsey Motors	\$ 200.00
7-Dec	Wm M "Mike" Harper	Property Tax	\$ 1,253.74	7-Dec	Dorsey Motors	\$ 1,500.00
7-Dec	Diamond, Roller, Taunton	Accounting Serv	\$ 64.80			
	Regions Bank	Service Charges	\$ 116.67			
			\$ 1,620.01			\$ 1,900.00

3/6

2000	Alabama Department of Revenue	Privilege Tax	\$ 110.00	15-Mar	Dick Dorsey	\$ 25.00
14-Mar	Diamond, Roller, Taunton	Accounting Serv	\$ 277.92	14-Jun	Dick Dorsey	\$ 300.00
14-Jun	Cleveland & Colley	Legal Fees (70%)	\$ 1,400.00	10-Jul	Dick Dorsey	\$ 2,712.50
10-Jul	Diamond, Roller, Taunton	Acct. Fees (70%)	\$ 1,312.50			
10-Jul	U S Postmaster	P O Box Rent	\$ 64.00			
13-Oct	Cleveland & Colley	Interstae Property	\$ 1,385.65	22-Dec	Dick Dorsey	\$ 4,131.95
22-Dec	Cleveland & Colley	z	\$ 598.60			
22-Dec	Diamond, Roller, Taunton	Acct. Fees (70%)	\$ 1,312.50			
22-Dec	Wm M "Mike" Harper	Property Tax	\$ 835.20			
	Regions Bank	Service Charges	\$ 111.29			
			\$ 7,407.66			\$ 7,169.45
2001						
15-Mar	Alabama Department of Revenue	Privilege Tax	\$ 110.00	14-Mar	Dick Dorsey	\$ 150.00
13-Aug	Diamond, Roller & Taunton	Legal Fees	\$ 1,200.00	13-Aug	Dick Dorsey	\$ 1,200.00
28-Sep	U S Postmaster	P O Box Rent	\$ 55.00	28-Sep	Dick Dorsey	\$ 200.00
21-Dec	Diamond, Roller & Taunton	Legal Fees	\$ 1,645.00	21-Dec	Dick Dorsey	\$ 1,700.00
27-Dec	Wm M "Mike" Harper	Property Tax	\$ 835.20	27-Dec	Dick Dorsey	\$ 850.00
	Regions Bank	Service Charges	\$ 136.13			
			\$ 3,981.33			\$ 4,100.00
2002						
18-Mar	Alabama Department of Revenue	PSA Tax Ext.	\$ 110.00	18-Mar	Dick Dorsey	\$ 110.00
16-Sep	Cleveland & Colley	Review Notes	\$ 1,380.00	16-Sep	Dick Dorsey	\$ 6,000.00
16-Sep	Cleveland & Colley	165 Prop	\$ 4,210.78			
16-Sep	U S Postmaster	P O Box Rent	\$ 68.00			
12-Dec	Wm M "Mike" Harper	Property Tax	\$ 835.20	12-Dec	Dick Dorsey	\$ 600.00
	Regions Bank	Service Charges	\$ 142.80			
			\$ 6,746.78			\$ 6,710.00

4/6

2003		PSE Tax	\$ 100.00	17-Mar	Dick Dorsey	\$ 1,000.00
14-Mar	Alabama Department of Revenue	Legal Fees	\$ 900.00			\$ 3,000.00
14-Mar	Cleveland and Colley	Accounting Fees	\$ 862.58	14-May	T D & O, Inc	\$ 500.00
14-May	Diamond, Roller Taunton	Legal Fees	\$ 2,000.00	24-Jul	Dick Dorsey	\$ 850.00
14-May	Cleveland and Colley	Accounting Fees	\$ 450.00	10-Dec		\$ 5,350.00
24-Jul	Diamond, Roller Taunton	P O Box Rent	\$ 68.00			
30-Sep	U S Postmaster	Property Tax	\$ 835.20			
10-Dec	Wm M "Mike" Harper	Service Charges	\$ 143.35			
	Regions Bank		\$ 5,359.13			
2004						
17-Feb	Cleveland & Colley	Legal Fees	\$ 403.12	17-Feb	Dick Dorsey	\$ 750.00
17-Feb	Diamond, Roller, Taunton	Tax Return	\$ 330.00			
12-Mar	Ala Department of Revenue	2004 PSE Tax	\$ 100.00	12-Mar	Dick Dorsey	\$ 500.00
27-Sep	US Postmaster	P O Box Rent	\$ 68.00			
15-Sep	Ala Dept of Revenue	2004 Priv Tax	\$ 10.00			
27-Sep	Diamond, Roller, Taunton	Tax Return	\$ 200.00			
	Regions Bank	Service Charges	\$ 142.08			
			\$ 1,253.20			\$ 1,250.00

2005

15-Mar	Ala Department of Revenue	2005 PSE Tax	\$ 100.00
15-Sep	Ala Department of Revenue	Privilege Tax	\$ 10.00
27-Sep	U S Postmaster	P O Box Rent	\$ 68.00
22-Nov	Diamond, Roller Taunton & Carmic	Tax Preparation	\$ 500.00
	Wm M "Mike" Harper	Property Tax	\$ 835.20
	Regions Bank	Service Charges	
			\$ 1,513.20

Owed to Dorsey Motor Sales

Plus Interest

\$ 35,900.00

\$ 2,000.00

LOWN
FROM
\$ 2,000.00

TO DO ADVERTISING
TO DO PROPERTIES
TO PAY ALL OF
THE EXPENSES.

TO DO
ADVERTISING
PROPERTIES
TO PAY ALL OF
THE EXPENSES.

5/16

EXHIBIT “16”

January 17, 2006 Letter from
Richard Dorsey to Donna Davis

Jan 19 06 09:08a

John Davis

205-511-8748

p. 1

January 17, 2006

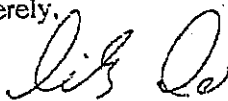
Donna Davis
2056 Glenn Eagle Lane
Birmingham, AL 35242

Dear Donna,

Per your verbal direction, I engaged Alan Taunton and Cliff Cleveland to produce an agreement where you would swap your stock on I-65 Properties, Inc. for the amount of debt that you owe. I told you that your proposal sounded good and I would move ahead as soon as I could reach them. Cliff's agreement is now ready as of yesterday, January 16, 2006 but I received a fax from you on January 16, resending your verbal offer. What is going on? I think it is time to stop fighting and move ahead with our lives – but this game playing has cost the corporation to incur additional useless debt. Since you refused to answer any of my phone calls or answering machine messages, this is the only way I know to communicate with you. Through all our ups and downs, I never stopped talking with you or answering your phone calls. Please let me know the direction now so we both can save some heartache.

Sincerely,

Dick



EXHIBIT

16

tabbles

EXHIBIT “17”

**February 3, 2006 Letter from Alan
Taunton to Lindsey Erwin**

Diamond, Roller, Taunton and Carmichael

Certified Public Accountants * A Professional Association
200 Executive Park Drive
P. O. Box 780248
Tallahassee, Alabama 36078

Telephone (334) 283-2567 Fax (334) 283-6900
Email: alantaunton@drtcpa.com

Sam I. Diamond, Jr., C.P.A.
Thomas Roller, C.P.A.
J. Alan Taunton, C.P.A.
James D. Carmichael, C.P.A.
James J. Gary III, C.P.A.
Tasha Patterson, C.P.A.

Montgomery Office
475 South Hull Street
Montgomery, Alabama 36104
(334) 834-7720

Members
American Institute of CPA's
Alabama Society of CPA's

February 3, 2006

Via: USmail

Lindsay B. Erwin
101 Bristol Lane
Birmingham, AL 35242

RE: I-65 Properties, Inc.

Dear Ms Erwin,

Mr. Richard M. Dorsey forwarded a copy of your letter of January 18, 2006 to me asking that I contact you and provide the information you may need and request concerning this company. He did stipulate that any accounting costs incurred would be at Mrs. Davis's expense and not his.

He has also provided us with documentation to substantiate the debt of the corporation. At this time we have not performed any verification of this balance.

Generally we review the transactions for the entire year at the time we prepare the corporate income tax returns. No services have been performed for 2005.

On October 18, 2003 I sent Mrs. Davis copies of tax returns for years 1998, 1999, 2000, 2001 and 2002. At the time these were all of the returns filed that she requested.

The 2003 and 2004 returns have since been filed and I do not know if Mr. Dorsey forwarded a copy to Mrs. Davis or not. If he did not send a copy to her I will certainly provide these to her.

If you have any specific questions concerning the books or tax returns of this corporation, please let me know. Mr. Dorsey has requested that I provide Donna anything she asks for that we may have relative to this company.

I have been a friend of the family for a long time and would like to see this matter handled in the most expeditious and fair manner as possible.

The corporation owns real estate that was acquired with a demand note from Dorsey Motor Sales, Inc. This occurred while Mr. Dorsey and Mrs. Davis's father was still living. Mr. Dorsey owns 70% of the stock and Mrs. Davis owns 30%. This ownership split was based on the ownership of Dorsey Motor Sales, Inc. at the time. Mr. Richard Dorsey owned 40% of the Dorsey Corporation and his parents owned the remaining 60%. The real estate was originally owned by the Dorsey Corporation. When it was determined that it would be in the best interest of all involved to take the real estate out of the Dorsey Corporation, a new corporation was formed (I-65 Properties, Inc.) with the 70% 30% ownership with the Dorsey parents not being shareholders. Their reasoning was that Richard M. already owned 40% and he

Page 2 of 2

and Donna would each receive 50% of their parents 60% upon their death, hence, the 30% to her and the increase of 40% to 70% for him. I-65 Properties, Inc. did not pay cash for the real estate but rather tendered a mortgage to Dorsey Motor Sales, Inc. No payments of principal or interest have been paid on the mortgage since the date of sale. Subsequent to the corporation acquiring the real estate there have been ongoing costs such as property taxes, annual franchise or privilege taxes, costs of preparing the income tax returns, and upkeep on the land. Over the years there may have been other costs that came up from time to time, but I do not recall specific examples from memory.

From time to time as costs occurred, Mr. Dorsey either paid the expenses or put money into the company bank account from which to pay the expenses. The debt at this time is from the original mortgage, accrued interest, and loans to meet ongoing expenses.

I hope this gives you some insight into the character of this company.

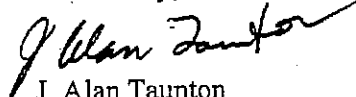
It should be a fairly straight forward task to verify the debt of the company. Each year when we prepare the tax returns we are provided the bank statements and details of transactions not going through the bank account, such as expenditures made by Mr. Dorsey on behalf of the company from his personal funds. We have not audited these expenditures, but have relied on his direction to make the appropriate entries on the books of the company.

It will take some time to go back and document each expense incurred and I would appreciate your discussing this with Donna and advising as to whom we should bill for our services and the extent to which she requests that we go in vouching the accuracy of each expense. Our firm will be appreciative and honored to perform any services that she may request.

I look forward to working with you on this matter.

Thanks,

Yours truly,



J. Alan Taunton
Certified Public Accountant

EXHIBIT “3”

**October 1, 1990 Promissory Note
from I-65 Properties to Dorsey Motor Sales**

GEORGE P. WALTHALL, JR
 ATTORNEY AT LAW
 141 WEST MAIN STREET
 PRATTVILLE, ALABAMA 36067
 205/365-2255 (OUR FILE NO. 90-412.B0)

PROMISSORY NOTE

\$228,200.00

For value received, the undersigned promises to pay to the order of DORSEY MOTOR SALES, INC. the principal sum of TWO HUNDRED TWENTY EIGHT THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$228,200.00), with interest thereon from date at the rate of twelve (12.0%) percent per annum. the principal and interest payable as follows, namely:

Due and payable on demand.

Payable at the office of DORSEY MOTOR SALES, INC., 625 East Main Street, Prattville, Alabama 36067 or such other place as the holder of the note may designate.

In the event of default in the payment of any installment of principal or interest the entire indebtedness shall become due and payable at once and in full at the option of the holder thereof.

The parties of this instrument, whether maker, endorser, surety or guarantor, each for himself hereby severally waives as to this debt, or any renewal thereof, all rights of exemption under the Constitution and Laws of Alabama, or of any other state, as to personal property, and they each severally agree to pay all costs of collection or securing or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by any attorney consulted, with reference to suit or otherwise. And each maker, endorser, surety and guarantor of this note severally waives demand, presentment, protest, notice of protest, suit and all other requirements necessary to hold them or any of them and they severally agree that time of payment may be extended or a renewal note taken or other indulgence granted without notice of, or consent to, such action, without release of liability of any such party. This note may be declared due and payable with interest computed or abated to date at anytime by notation hereon by the holder in the event of the insolvency of, general assignment by, judgment against or petition in bankruptcy by or against any such party liable hereunder, subject to terms of mortgage.

DONE this 1 day of oct, 1990.

I-65 PROPERTIES, INC.

Richard M. Dorsey A-5
 by: RICHARD M. DORSEY, President.

ATTEST:

Connie S. Dorsey
 CONNIE S. DORSEY, Secretary

Sworn to and subscribed before me this the 1 day of October, 19 90.

Jo Anne Perry
 NOTARY PUBLIC



EXHIBIT “7”

**Closing Statement for
I-65 Properties**

CLOSING SALES STATEMENT

SELLER: DORSEY MOTOR SALES, INC.
 PURCHASER: I-65 PROPERTIES, INC.
 PROPERTY: 9.606 acres, more or less, located in N1/2 of Section 17, Township 17 N, Range 17 E, Elmore County, Alabama

SALES PRICE

TOTAL SALES PRICE \$250,000.00

DEDUCTIONS FROM SALES PRICE

FIRST MORTGAGE 21,800.00
 PROMISSORY NOTE 228,200.00

TOTAL DEDUCTIONS 250,000.00

NET AMOUNT DUE SELLER \$ 0.00

ITEMS PAYABLE BY PURCHASER

GROSS SALES PRICE 250,000.00
 ATTORNEY FEES (including document preparation, office conferenced and closing, title examination and title certification, and all fees associated with incorporating I-65 Properties, Inc. 1,500.00
 ABSTRACT UPDATE 100.00
 RECORDING FEES 260.00

TOTAL PAYABLE 251,860.00

CREDITS TO PURCHASERS

MORTGAGE ASSUMED 21,800.00
 PROMISSORY NOTE 228,200.00

TOTAL CREDITS 250,000.00

NET AMOUNT DUE FROM PURCHASER:

\$ 1,860.00

DORSEY MOTOR SALES, INC.
 by: Richard M. Dorsey Pres.
 by: RICHARD M. DORSEY, PRES.

I-65 PROPERTIES, INC.
 by: Richard M. Dorsey
 by: RICHARD M. DORSEY, PRES.

ATTESTED:

Richard T. Dorsey Treas.
 by: RICHARD T. DORSEY, TREAS.

Connie S. Dorsey Sec.
 by: CONNIE S. DORSEY, SEC.

DATED: 1 Oct. 1990

George P. Walthall Jr.
 GEORGE P. WALTHALL JR.
 CLOSING ATTORNEY

